

***DISADVANTAGED BUSINESS ENTERPRISE (DBE) SPECIAL PROVISIONS***



## **DISADVANTAGED BUSINESS ENTERPRISE (DBE) SPECIAL PROVISIONS**

### **PURPOSE**

These provisions (1) provide an explanation of the federal law and information regarding compliance with the DBE requirements applicable to this contract, (2) explain the process Mn/DOT will follow to evaluate bidders' efforts to obtain DBE participation, (3) provide the standards Mn/DOT will use to measure compliance with these requirements, and (4) identifies sanctions.

### **POLICY STATEMENT**

It is the policy of the Minnesota Department of Transportation (Mn/DOT) that DBEs, as defined in 49 C.F.R. § 26, shall have the maximum feasible opportunity to participate in contracts financed in whole or in part with public funds provided by the U.S. Department of Transportation (DOT). Consistent with this policy, Mn/DOT will not allow any person or business to be excluded from participation in, denied the benefits of, or to otherwise be discriminated against in connection with the award and performance of any DOT-assisted contract because of sex, color, race, or national origin. Mn/DOT has established a Disadvantaged Business Enterprise Program in accordance with regulations of the DOT, 49 C.F.R. § 26.

Mn/DOT has received federal financial assistance from DOT for this contract, therefore the DBE requirements of 49 C.F.R. § 26 apply to this contract. As a condition of receiving this assistance, Mn/DOT has provided assurance it will comply with the 49 C.F.R. § 26. This regulation requires that contractors take necessary and reasonable steps to ensure that DBEs have the maximum opportunity to compete for and perform this contract. These special provisions provide detailed information about these requirements, and identify the responsibility the contractor has to demonstrate compliance with the requirements.

### **CONTRACT ASSURANCE**

The contractor, and its subcontractor(s), shall not discriminate on the basis of sex, color, race or national origin in the performance of this contract. The contractor agrees to act in accordance with applicable requirements of 49 C.F.R. § 26 in the execution and award of this contract. Failure by the contractor to comply with these requirements is a material breach of this contract, which may result in the termination of this contract or other such remedy as Mn/DOT deems appropriate.

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### BASIC REQUIREMENT

In order to be awarded this contract, the Apparent Low Bidder (ALB) must establish either (1) that it has met the DBE participation goal of the contract; or (2) that it has made adequate good faith efforts (GFE) to meet the DBE goal. This requirement is in addition to all other pre-award requirements.

### DBE GOAL OF THIS CONTRACT

The DBE goal on this contract is 7.8 percent.

### METHODS TO ATTAIN THE GOAL

The goal may be attained by:

1. Subcontracting with a DBE certified by the Minnesota Unified Certification Program (Mn/UCP). To prove the existence of such a subcontract, the Apparent Low Bidder (ALB) shall submit a signed agreement or a signed affidavit committing it to enter into such a subcontract;
2. Leasing equipment from a Mn/UCP-certified DBE;
3. Entering into a joint venture with a Mn/UCP-certified DBE. This joint venture must be approved in writing by the Mn/DOT Office of Civil Rights prior to bid opening;
4. Purchasing materials and supplies from a Mn/UCP-certified DBE. Generally, sixty percent (60%) of the supplier's contracted amount will be credited toward the DBE goal; however 100% of the amount will be credited towards the DBE goal if the supplies or materials are obtained from a Mn/UCP -certified DBE manufacturer; or
5. Using other services as approved in writing by the Mn/DOT Office of Civil Rights prior to bid opening.

### SOLICITING DBEs

**All bidders should make every reasonable effort to subcontract work to DBEs through good faith negotiations and solicitations in advance of the dates specified for submitting and opening of bids.**

In order to fulfill a DBE goal, the firms utilized as DBE subcontractors or suppliers must be certified as DBEs by the Mn/UCP **prior to the date of the bid opening**. The Mn/UCP DBE directory, which is found on Mn/DOT's Office of Civil Rights website, includes the names and addresses of all certified DBE firms. To be listed in the DBE directory, a DBE needs only to be

certified as a DBE by the Mn/UCP. Neither Mn/DOT nor the Mn/UCP makes any representation as to any DBE's technical or financial ability to perform the work. Prime contractors are solely responsible for performing due diligence in hiring DBE subcontractors. A DBE subcontractor's failure to perform the work will not be considered justification for a compensation increase.

#### APPARENT LOW BIDDER (ALB) SUBMITTAL OF INFORMATION

The ALB must identify the efforts it made to meet the DBE goal. The ALB must submit the information described in this section to the Mn/DOT Office of Civil Rights. All bidders are required to thoroughly document these solicitation efforts. The ALB shall justify any bids, quotes, or proposals it rejects from properly certified, qualified DBE firms.

**THE FOLLOWING INFORMATION MUST BE SUBMITTED ON THE SUBMISSION DUE DATE. The Submission Due Date is the fifth business day after the bid letting date, unless the Mn/DOT Director of the Office of Civil Rights grants a written extension for good cause shown. The five day period starts the business day following the bid letting date. Information sent by fax or personal delivery must be received by the Mn/DOT Office of Civil Rights no later than 4:30PM central time on the Submission Due Date. Information sent by U.S. mail must be postmarked no later than the Submission Due Date. FAILURE TO SUBMIT ALL REQUIRED INFORMATION WITHIN THE ALLOWED FIVE BUSINESS DAY PERIOD WILL RESULT IN REJECTION OF YOUR BID ON THE BASIS THAT YOU ARE NOT A RESPONSIBLE BIDDER. PARTIAL SUBMISSIONS WILL NOT BE CONSIDERED.**

The ALB must either (1) identify DBE participation sufficient to meet the DBE goal; or (2) demonstrate that the ALB made adequate good faith efforts to meet the DBE goal. The ALB must submit the following documents to the Mn/DOT Office of Civil Rights:

1. Certificate of Good Faith Efforts Consolidated Form (GFE Consolidated Form)
2. DBE Description of Work and Field Monitoring Report (Exhibit A)
3. Supporting Documentation to Verify Good Faith Efforts

The ALB must complete and submit the attached **Certificate of Good Faith Efforts Consolidated Form** as stated in the form instructions.

Part A - The ALB must provide contact information.

Part B - The ALB must provide project information including the DBE goal and the amount of DBE commitment the ALB obtained.

Part C - The ALB must provide information stating the amount of self-performance and DBE and non-DBE subcontractors' participation in this contract.

Part D - The ALB must list each subcontractor it **solicited**. The information must include all DBE and non-DBE firms (including all subcontractors, service providers and suppliers) from whom the ALB solicited quotes to provide work and supplies for this contract. Part D must be completed only if the ALB did not obtain sufficient DBE participation to meet the DBE goal.

Part E - The ALB must list the DBE firms that it intends to use on this contract and

provide an Exhibit A form and quote.

Part F - The ALB must list all non-DBE firms that provided a quote and indicate whether the non-DBE quote was accepted.

Part G - The ALB must list DBE firms that provided a quote but were not selected. Part G must be completed only if the ALB did not obtain sufficient DBE participation to meet the DBE goal.

Part H - The ALB must complete this **Good Faith Efforts Affidavit** regardless of whether the ALB's list of proposed subcontractors, service providers, and suppliers shows sufficient DBE participation to meet the DBE goal set for this contract.

The ALB must submit **DBE Description of Work and Field Monitoring Report (Exhibit A)**. A separate form must be submitted for each DBE firm the ALB proposes to utilize on the project. This must *be accompanied by proof of commitment to use the DBE firms*, such as copies of signed agreements, affidavits, or letters of intent. These commitments will be used to determine the "commitment rate" (the percentage of DBE participation). The ALB must commit to using the proposed DBE firms for not less than the percentage of the DBE participation shown on the DBE Description of Work and Field Monitoring Report (Exhibit A). An ALB will be deemed a non-responsible bidder if it fails to include in its submission a completed DBE Description of Work and Field Monitoring Report (Exhibit A) for each DBE along with the required signed agreements or affidavits.

The ALB must submit information that demonstrates its adequate good faith efforts to achieve the DBE goal. This information can include, but is not limited to, copies of solicitation letters, faxes, and emails to DBE firms. The ALB must identify the actions it took to achieve the DBE goal, including those actions listed in 49 C.F.R. § 26 Appendix A.

#### FAILURE TO SUBMIT INFORMATION

If the ALB fails to submit the information required by the previous section the ALB is a non-responsible bidder and Mn/DOT will reject the ALB's bid. **All required information must be submitted by the Submission Due Date.** The information submitted shall state the ALB's commitment to use DBEs for not less than the commitment rate.

#### IF THE DBE GOAL IS NOT MET, A GOOD FAITH EFFORTS REVIEW WILL BE CONDUCTED

An ALB that does not commit to meeting the DBE goal is thereby not disqualified if the ALB demonstrates that it made adequate good faith efforts (GFE) to meet the DBE goal. An ALB that does not commit to meet the DBE goal and fails to show adequate GFE were made is a non-responsible bidder and Mn/DOT will reject its bid. See 49 C.F.R. § 26.53(a)(2).

A DBE firm that bids as a prime contractor will be deemed to have met the DBE goal if the value of the work performed by its own forces, combined with any work that it has committed to be performed by DBE subcontractors and DBE suppliers, meets or exceeds the DBE goal. See 49 C.F.R. § 26.53(g).

In addition to the GFE activities listed in the following section, Mn/DOT may, as permitted by the Federal regulations, take into account the performance of other bidders in meeting the DBE contract goal. See 49 C.F.R. § 26 Appendix A(V).

#### EVALUATION OF GOOD FAITH EFFORTS

If an ALB has a DBE commitment rate that is below the DBE goal, then the ALB must demonstrate that it made adequate good faith efforts in attempting to meet the DBE goal. Mn/DOT's Office of Civil Rights (OCR) staff will review the GFE documents submitted by the ALB and the DBE commitment submitted by each bidder to evaluate the ALB's commitment rate.

The ALB must show that it took all necessary and reasonable steps to achieve the DBE goal which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful. In evaluating the ALB's adequate good faith efforts, Mn/DOT will consider the following list of actions. This is not a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases. Compliance with the adequate good faith efforts requirement will be determined on a case-by-case basis.

- A. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and /or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The ALB must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.
- B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
- C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
- D(1) Negotiating in good faith with interested DBEs. It is the ALB's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why



additional agreements could not be reached for DBEs to perform the work.

- D(2) An ALB using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the ALB of the responsibility to make the good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.
- E. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.
- F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.
- G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- H. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

Following this review, the OCR staff will make a recommendation to the Director of OCR, or designee, (Director) as to whether the ALB has met the DBE goal or made adequate good faith efforts. The Director of OCR will determine whether the ALB has met the DBE goal or made adequate good faith efforts to meet the goal for this contract in accordance with 49 C.F.R. § 26.53 and 49 C.F.R. § 26 Appendix A. The Director's written determination will be mailed to the ALB informing it of this decision approximately 10-12 business days after the Submission Due Date. If the Director determines that the ALB failed to meet the DBE goal or that it failed to make adequate good faith efforts to do so, the determination notice will be sent by certified U.S. mail.

An ALB that fails to meet the DBE goal or fails to make adequate good faith efforts to meet the goal is a non-responsible bidder and shall not be awarded the contract.

### ADMINISTRATIVE RECONSIDERATION

If the Director determines that the ALB failed to make adequate good faith efforts, the ALB may request administrative reconsideration. (49 C.F.R. § 26.53(d)). If the ALB does not make a timely written request for administrative reconsideration as described herein, the ALB will be deemed to have waived its right to request administrative reconsideration.

The ALB's request for administrative reconsideration must be made in writing. Requests sent by fax or personal delivery must be received by the Mn/DOT Office of Civil Rights no later than 4:30 PM on the fifth business day after the ALB receives written notice of the determination. Administrative reconsideration requests sent by U.S. mail must be postmarked no later than the fifth business day after the ALB receives notice of the determination. The ALB is deemed to have notice as of the date indicated on the certified mail receipt signed by the ALB, or its representative, at the time of delivery. The ALB must submit the written request for reconsideration to the attention of **Mn/DOT Deputy Commissioner at MnDOT, 395 John Ireland Blvd. St. Paul, Minnesota 55155; or by fax 651-366-4795. A copy of the request must be sent to the Director of the Office of Civil Rights at the same address or fax 651-366-3129.**

The Mn/DOT Deputy Commissioner, or a designated official, will serve as the Reconsideration Official. The Reconsideration Official shall not have any role in the original determination that the ALB failed to meet the DBE goal or failed to make adequate good faith efforts to do so.

In the reconsideration process, the ALB will have the opportunity to:

- Provide written documentation or argument concerning the issue of whether the ALB met the goal or made adequate good faith efforts to do so. (49 C.F.R. § 26.53(d)(1).
- Meet in person with the Reconsideration Official to discuss the issue of whether the ALB met the goal or made adequate good faith efforts to do so. (49 C.F.R. § 26.53(d)(3).

The Reconsideration Official will reconsider the record documenting the good faith efforts of the ALB. The reconsideration process will include the documents and arguments that the ALB is permitted to submit. The reconsideration process is a review of only the good faith efforts made by the ALB as of the Submission Due Date. Good faith efforts made subsequent to that date will not be considered.

Mn/DOT will provide the ALB with a written decision on reconsideration, explaining the basis for the determination **within 5 business days following the date scheduled for the ALB to meet with the Reconsideration Official to discuss the issue.** In accordance with 49 C.F.R. § 26.53(d)(5), the result of Mn/DOT's reconsideration process is not subject to administrative appeal to the U.S. Department of Transportation.

### COUNTING DBE PARTICIPATION & COMMERCIALY USEFUL FUNCTION

In accordance with 49 C.F.R. § 26.55, Mn/DOT will determine the percentage of DBE participation that will be counted toward the overall DBE goal as follows:

(a) When a DBE participates in a contract, Mn/DOT will only count the value of the work actually performed by the DBE toward DBE goals.

1. The entire amount of the portion of a construction contract (or other contract not covered by paragraph 49 C.F.R. § 26.55(a)(2)) that is performed by the DBE's own forces. Include the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies, and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate).
2. The entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract, counts toward DBE goals, provided that Mn/DOT determines the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.
3. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontract work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm will not count toward DBE goals.

(b) When a DBE performs as a participant in a joint venture, Mn/DOT will count a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward DBE goals.

(c) Mn/DOT will count expenditures of a DBE contractor toward DBE goals only if the DBE is performing a commercially useful function on that contract.

1. A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the Contract, for negotiating price, determining quality and quantity, ordering the materials, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, Mn/DOT will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the Contract is commensurate with the work it is actually performing and DBE credit claimed for its performance of the work, and other relevant factors.

2. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which the funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, MnDOT must examine similar transactions, particularly those in which DBEs do not participate.
  3. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, Mn/DOT must presume that it is not performing a commercially useful function.
  4. When a DBE is presumed not to be performing a commercially useful function as provided in the preceding paragraph, the DBE may present evidence to rebut this presumption. Mn/DOT may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.
  5. Mn/DOT decisions on commercially useful function matters are subject to review by the concerned operating administration, but are not administratively appealable to U.S. DOT.
- (d) Mn/DOT will use the following factors in determining whether a DBE trucking company is performing a commercially useful function:
1. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there can not be a contrived arrangement for the purpose of the meeting DBE goals.
  2. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
  3. The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures and operates using drivers it employs.
  4. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.
  5. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE lessees not to exceed the value of transportation services provided by DBE-owned trucks on the contract. Additional participation by non-DBE lessees receives credit only for the fee or commission it receives as a result of the lease arrangement. If a recipient chooses this approach, it must obtain written consent from the Director of the Office of Civil Rights.

6. For purposes of this section, a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for the use of the leased truck. Leased trucks must display the name and identification number of the DBE.
- (c) Mn/DOT will count expenditures with DBEs for materials or supplies toward DBE goals as provided in the following:
1. Mn/DOT will count 100% of the cost of the materials or supplies toward DBE goals if the materials or supplies are obtained from a DBE manufacturer.
  2. For purposes of this section (e), a manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described in the specifications.
  3. If the materials or supplies are purchased from a DBE regular dealer, Mn/DOT will count 60% of the cost of the materials or supplies toward DBE goals.
  4. For purposes of this section (e), a regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold to or leased to the public in the usual course of business.
    - A. To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.
    - B. A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating, or maintaining a place of business as provided in 49 C.F.R. §26.55(e)(2)(ii) if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long -term lease agreement and not on an ad hoc or contract-by-contract basis.
    - C. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this section (e).
  5. With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, Mn/DOT will count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a

job site, toward DBE goals, provided Mn/DOT determines the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. Mn/DOT, however, will not count any portion of the cost of the materials or supplies themselves toward DBE goals.

- (f) If a firm is not currently certified as a DBE in accordance with the standards of 49 C.F.R. § 26 Subpart D at the time of execution of the contract, Mn/DOT will not count the firm's participation toward any DBE goals.
- (g) The dollar value of the work performed under a contract with a firm after it has ceased to be certified will not be counted toward the overall goal.
- (h) Mn/DOT will not count the participation of a DBE subcontractor toward the contractor's final compliance with its DBE obligations on a contract until the amount being counted has been actually paid to the DBE.

#### FAILURE TO FULFILL DBE COMMITMENT

Mn/DOT will invoke appropriate administrative sanctions for non-compliance when a contract has been awarded and performance has begun, but the contractor fails to meet the DBE goal or make an adequate good faith effort to do so. Sanctions for noncompliance may include, but are not limited to, Mn/DOT withholding progress payments and taking a monetary deduction from the contract proceeds. If the contractor fails to complete its work on the contracts executed with DBE firms, as required by this contract, and the failure is through no fault of the DBE firms, Mn/DOT may deduct a sum equal to the portion of the DBE commitment not fulfilled. This provision will not apply if Mn/DOT reduces the quantity of work subcontracted to the DBE.

Mn/DOT may allow an adjustment of the commitment if the DBE participant that was part of the original commitment fails to perform and cannot be replaced with another DBE subcontractor despite the contractor's adequate good faith efforts to find another DBE to perform the same amount of work.

#### DBE REPLACEMENT

The contractor must make good faith efforts to replace a DBE subcontractor who is unable to perform successfully with another DBE to perform the same amount of work. The contractor shall not terminate for its convenience a DBE subcontract and then perform the work of the terminated subcontract with its own forces.

Once a contractor submits an affidavit, subcontract or other signed agreement, and the DBE Description of Work and Field Monitoring Report (Exhibit A), the DBE firm cannot be replaced by another DBE or a non-DBE firm for any reason until the following occurs:

1. Mn/DOT's Office of Civil Rights receives a written request for approval of the

substitution, including the reasons for the substitution; and,

2. Mn/DOT's Office of Civil Rights grants the contractor a written approval of the substitution.

Mn/DOT staff may assist the Contractor, when requested, in replacing DBEs. This assistance may include but is not limited to:

1. Providing the contractor with information regarding the availability of other DBEs.
2. Providing the contractor with assistance in locating available DBEs

#### PROMPT PAYMENT

Minnesota Statutes §16A.1245 requires that the prime contractor agrees to pay each subcontractor within ten (10) days of the prime contractor's receipt of payment from the state for undisputed services provided by the subcontractor. The prime contractor is subject to pay interest charges of 1-1/2 percent per month, or any part of a month, to the subcontractor on any undisputed amount not paid to the subcontractor within the ten (10) day period. This provision applies to DBE and non-DBE subcontractors.

Prime contractors are required to make prompt and full payment of any retainage kept by the prime contractor to the subcontractor within 10 days after the subcontractor's work is satisfactorily completed. Satisfactorily completed means when all the tasks called for in the subcontract have been accomplished and documented as required by Mn/DOT. When Mn/DOT has made incremental acceptances of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed. See 49 C.F.R. § 26.29(b) and (c).

Failure to comply with these payment provisions may result in penalties including the withholding of progress payments to prime contractors. Appropriate penalties will be determined by Mn/DOT. The Contractor Payment Form must be completed for payments to subcontractors regardless of their DBE status.



Prime Contractor \_\_\_\_\_ State Project # \_\_\_\_\_

**DBE Description of Work  
And Field Monitoring Report (Exhibit A)**

A contract will not be awarded to the Prime Contractor unless this form is submitted with a signed subcontract, purchase order or affidavit for each DBE participating in the contract. This form is complete when the DBE subcontractor has filled in **all of the applicable information in sections A and B and signs in section C.**

PLEASE PRINT CLEARLY OR TYPE.

**Section (A): (All DBE Subcontractors, including Trucking firms must complete this Section.)**

**MUST BE COMPLETED BY THE DBE PRINCIPAL**

Letting Date: \_\_\_\_\_ State Project Number: \_\_\_\_\_

Prime Contractor: \_\_\_\_\_ Phone #: \_\_\_\_\_

DBE Subcontractor: \_\_\_\_\_ Phone #: \_\_\_\_\_

DBE Principal Name: \_\_\_\_\_ Total Subcontract \$: \_\_\_\_\_

DBE Participation Claimed: Percent \_\_\_\_\_ % Amount \$ \_\_\_\_\_

1. Did you bid and sign a subcontract agreement with the above-named prime contractor? \_\_\_\_\_
2. Are the items, quantities, and prices listed on the subcontract agreement or affidavit correct? \_\_\_\_\_
3. List the line items to be performed: \_\_\_\_\_  
\_\_\_\_\_
4. Are there any other agreements not addressed in the subcontract? If yes, please explain: \_\_\_\_\_  
\_\_\_\_\_
5. If equipment to be used is other than what is listed in your DBE certification file please answer the following:
  - a. Will the renting or leasing include any of the following: (Attach a copy of the lease or rental agreement(s).  
Equipment \_\_\_\_\_ Insurance \_\_\_\_\_ Operator \_\_\_\_\_ or Maintenance \_\_\_\_\_
  - b. Lessor's name: \_\_\_\_\_  
Amount to be paid: \_\_\_\_\_ Number of days to be used: \_\_\_\_\_
6. Will there be any other firm(s) providing work listed in your (DBE) subcontract?  
If yes, answer the following: Firm's Name: \_\_\_\_\_ \$ amount of the work: \_\_\_\_\_
2. What is the name of the person supervising your work on this project? \_\_\_\_\_  
Is this your employee? \_\_\_\_\_
8. How many people will you be employing on this project? \_\_\_\_\_ Minorities: \_\_\_\_\_ Females: \_\_\_\_\_
9. Total dollar amount of materials to be supplied? \_\_\_\_\_
10. Who are you purchasing the materials from? \_\_\_\_\_
1. Please submit Purchase Agreement and/or Purchase Order from manufacturer(s) or primary material supplier(s).  
**NOTE: This Exhibit 'A' will not be approved without the Purchase Agreement/Purchase Order.**
2. Please list all subcontracts that your firm will be performing during the current construction season including non-DBE work:  
(Attach additional sheet if necessary.)

	Project Number	Prime Contractor	Project Location	# of Working Days
1.				
2.				
3.				

Mn/DOT OCR

8/2010



Prime Contractor \_\_\_\_\_ State Project # \_\_\_\_\_

**Section (B):**

**TO BE COMPLETED ONLY BY THE DBE TRUCKER**

1. The number of hours contracted or quantities to be hauled on this project? \_\_\_\_\_
2. How many fully operational units will be used on this Project? \_\_\_\_\_ (Tractor/trailers: \_\_\_\_\_ Dump trucks: \_\_\_\_\_)
3. How many fully operational units will be yours? \_\_\_\_\_ (Dump trucks: \_\_\_\_\_ Tractors/trailers: \_\_\_\_\_)
4. How many other units will be yours? \_\_\_\_\_ (Tractors: \_\_\_\_\_ Trailers: \_\_\_\_\_)
5. If ITO's or trucking companies are to be used on this project answer the following:

	Name of ITO/Company	Dollar Amount of Contract/Agreement	Number of Dump Trucks, Tractors/Trailers (specify)
1.			
2.			
3.			
4.			

**Section (C): (All DBE Subcontractors, including Trucking firms, must complete Section C.)**

I hereby certify that the information presented above is correct. I agree to inform the Office of Civil Rights in writing of any changes within 10 days of the change(s).

DBE Company: \_\_\_\_\_

DBE Principal: \_\_\_\_\_  
 \_\_\_\_\_ Signature \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

**Section (D): TO BE COMPLETED BY Mn/DOT OFFICE OF CIVIL RIGHTS STAFF PERSON**

Project Number: \_\_\_\_\_ District # \_\_\_\_\_  
 Mn/DOT OCR Staff Person: \_\_\_\_\_ Phone No. \_\_\_\_\_  
 Project Engineer: \_\_\_\_\_ On-site Phone #: \_\_\_\_\_  
 Office Phone #: \_\_\_\_\_

**Section (E): TO BE COMPLETED BY PROJECT ENGINEER WHEN THE DBE'S PORTION OF WORK IS 1/3 TO 1/2 COMPLETED**

1. Does it appear that the DBE firm is performing the work specified in (Exhibit "A") description of work?  
 Yes \_\_\_\_\_ No \_\_\_\_\_
2. Does it appear that the DBE contractor is managing their portion of the project and using their own company employees?  
 Yes \_\_\_\_\_ No \_\_\_\_\_
3. Does it appear that the DBE contractor is providing the equipment for their items of work or other work specified?  
 Yes \_\_\_\_\_ No \_\_\_\_\_
4. Does it appear that the quality of the DBE contractor's performance, scheduling and project management are meeting industry standards?  
 Yes \_\_\_\_\_ No \_\_\_\_\_
5. Comments: \_\_\_\_\_

**NOTE:** If you, as the Project Engineer, have checked "NO" to any of the above questions or have any other comments, it is important that you contact the Mn/DOT Office of Civil Rights Staff Person assigned to this project.

Project Engineer: \_\_\_\_\_ Date: \_\_\_\_\_

Mn/DOT OCR

8/2010



Prime Contractor \_\_\_\_\_ State Project # \_\_\_\_\_

## Certificate of Good Faith Efforts Consolidated Form (GFE Form) Instructions

This form consolidates the Certificate of Good Faith Efforts, the Good Faith Efforts Affidavit, and the Bidders List in the DBE Special Provisions and is referred to as the GFE Consolidated form. All parts of this form must be completed unless otherwise stated in the section's heading. The Apparent Low Bidder (ALB) must complete this form and submit it with the Good Faith Efforts Information by the Submission Due Date as defined in the DBE Special Provisions. Prime contractors may also use this form to demonstrate good faith efforts when a DBE is replaced after the contract is awarded.

The ALB should include in its Good Faith Efforts Information a cover letter addressed to the Mn/DOT Office of Civil Rights. The cover letter should identify in detail the efforts the ALB made to meet the DBE goal. The ALB is required to thoroughly document its solicitation efforts and justify any bids, quotes or proposals it rejects from properly certified DBE firms. **THE COVER LETTER SHOULD INCLUDE EACH OF THE FACTORS IDENTIFIED IN 49 C.F.R. Part 26, App. A, SUMMARIZED AS FOLLOWS:**

1. This GFE Consolidated Form must be completed. Please note that **"Part D - SOLICITATION OF SUBCONTRACTORS, SUPPLIERS, AND SERVICE PROVIDERS"** on pg. 4, and **"Part G - DBES QUOTED BUT NOT SELECTED"** on pg. 7 are to be completed **ONLY IF** the DBE goal is **NOT** met.
2. A statement of the ALB's overall plan for obtaining DBE participation noting barriers or challenges the ALB encountered in obtaining DBE participation. Specifically, detailing how all necessary and reasonable steps to achieve the DBE goal or other requirements which, by their scope, intensity, and appropriateness to the objective of achieving the DBE goal, could reasonably be expected to obtain sufficient DBE participation - even if the ALB was not successful.
3. **The solicitation requirement is two-fold and includes the *initial solicitation* and appropriate *follow up* with interested DBEs.** Evidence of solicitation efforts of DBEs such as copies of requests for bids sent to DBE firms with identification of the firms clearly stated; fax confirmation sheets displaying the date, fax number, name of DBE firm, and status; list of all DBE firms called, date, contact name and response; or email distribution lists with date and time clearly indicated. The solicitations to DBEs should provide sufficient information about the type of work available on the project.
4. Identify the efforts made to select portions of work to be performed by DBEs in order to increase the likelihood that the DBE goal will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation.
5. A detailed explanation of the reason for not accepting DBE quotes. Each non-accepted quote should be addressed individually. Provide an explanation of the efforts the ALB made to negotiate in good faith with interested DBEs. Provide information about any cost comparisons that were considered in the decision to not accept DBE quotes. **The fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for an ALB's failure to meet the contract DBE goal, as long as such costs are reasonable.** The ALB is not required to accept higher quotes from DBEs if the price difference is excessive or unreasonable. If the ALB makes such a determination it should provide a written explanation for this conclusion.
6. A detailed explanation of the ALBs efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance.
7. A detailed explanation of the ALBs efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services.
8. A detailed explanation of the effective use by the ALB of the services of available minority/women community organizations; minority/women contractor's groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.
9. Provide copies of any advertisements placed on hardcopy or websites. Advertisements should include information about the project(s), type(s) of work for which quotes are being solicited, and specific contact information for the ALB.

Contact the Mn/DOT Office of Civil Rights if you have any questions; main line 651-366-3073



Prime Contractor \_\_\_\_\_ State Project # \_\_\_\_\_

## Guidelines for Certificate of Good Faith Efforts (GFE) Consolidated Form

The Apparent Low Bidder (ALB) must show that it took all necessary and reasonable steps to achieve the DBE goal which by their scope, intensity and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if not fully successful. The criteria for evaluating good faith efforts is described in 49 CFR, Part 26, Appendix A which can be found at <http://www.osdbu.dot.gov/DBEProgram/>. ALBs submitting good faith efforts information should address the following factors in its Good Faith Efforts Information submission. The information below is not a mandatory list, nor is it exclusive or exhaustive.

### Criteria 1: "Solicitation Efforts"

1. Did the ALB use the current DBE Directory to identify DBEs?
2. Did the ALB perform sufficient solicitations given the amount of work to meet the DBE goal?
3. Did the ALB break out and solicit for work in economically feasible units?
4. Did the ALB solicit for work that it otherwise would self-perform?
5. Were DBEs with business operations in close geographic proximity to the project solicited?

### Criteria 2: "Timely Notice"

1. Did the ALB send timely written (e-mail/fax) solicitation notices to certified DBE firms?
2. Did the solicitation notice include the following:
  - a. Name and location of project
  - b. Bid date
  - c. Scope of work requested
  - d. Location where DBE's can review plans and specifications
  - e. Date and time to submit quote
  - f. Contact name for technical assistance
  - g. Any special requirements

### Criteria 3: "Finance and Bonding Outreach"

1. Did the ALB offer assistance by providing contacts for possible bonding, insurance, and lines of credit?
2. Did the ALB offer assistance by providing technical assistance in these areas?

### Criteria 4: "ALB follow-Up"

1. Did the contractor maintain a "follow-up log" from the initial solicitation? The log must show:
  - a. Type of contact (fax, telephone, e-mail)
  - b. Name of contact person
  - c. Name of DBE firm
  - d. Date and time of DBE contacted
  - e. Response received
  - f. Reason for DBE not bidding project (if applicable)

### Criteria 5: "ALB DBE Program Outreach and Support"

1. Did the ALB host DBE informational workshops, attend Minnesota Department of Transportation (Mn/DOT) sponsored DBE events; such as networking sessions, DBE conferences, DBE/ALB meetings, etc.?
2. Did the ALB contact minority business organizations about DBE opportunities?

Note: The Submission Due Date is **the fifth business day after the bid letting date** in accordance with the Mn/DOT DBE Special Provisions. Contact the Mn/DOT Office of Civil Rights if you have any questions; main line 651-366-3073

Prime Contractor \_\_\_\_\_ State Project # \_\_\_\_\_

**MINNESOTA DEPARTMENT OF TRANSPORTATION  
OFFICE OF CIVIL RIGHTS  
CERTIFICATE OF GOOD FAITH EFFORTS CONSOLIDATED FORM**

This Certificate of Good Faith Efforts Consolidated form (GFE Consolidated form) is required to demonstrate that the Apparent Low Bidder (ALB) either met the DBE goal, or made adequate good faith efforts to meet the DBE goal pursuant to 49 C.F.R. Part 26, Appendix A. Please refer to the instruction sheet prior to completing the form. This form and all supporting Good Faith Efforts documentation must be provided to the Mn/DOT Office of Civil Rights prior to the Submission Due Date as defined within the DBE Special Provisions.

<b>PART A – PRIME CONTRACTOR'S INFORMATION</b> (All Primes complete this section.)				
COMPANY NAME				
ADDRESS	STREET	CITY	STATE	ZIP CODE
PHONE #	FAX #		EMAIL ADDRESS	
CONTACT PERSON		TITLE		

<b>PART B - PROJECT DESCRIPTION</b> (All Primes complete this section.)			
STATE PROJECT #		CONTRACT # (If Applicable)	<input type="checkbox"/> Attach copy of Mn/DOT Advertisement
ANTICIPATED START DATE (Based on progress schedule)		EXPECTED COMPLETION DATE (Based on progress schedule)	
DBE GOAL	% VS	DBE COMMITMENT	(Type of GFE Information – Check one only) <input type="checkbox"/> Pre-award <input type="checkbox"/> Post-award/Execution
TOTAL DBE PARTICIPATION DOLLARS BASED ON ADVERTISED DBE GOAL (Total prime bid \$ * DBE % Goal)			

<b>PART C – PROJECT SUMMARY AMOUNTS</b> (All Primes complete this section.)	
TOTAL PRIME BID	\$
TOTAL DOLLARS COMMITTED TO NON-DBE'S (Not including suppliers)	\$
TOTAL DOLLARS COMMITTED TO DBE'S (Not including suppliers)	\$
TOTAL DOLLARS COMMITTED TO DBE SUPPLIERS (Total paid to DBE suppliers 60%)	\$
WORKED PERFORMED BY PRIME	\$
PERCENT OF WORK PERFORMED BY PRIME	%
TOTAL DBE PARTICIPATION REMAINING (Difference between DBE goal \$ and DBE commitment \$)	\$

**PART D – SOLICITATION OF SUBCONTRACTORS, SUPPLIERS, AND SERVICE PROVIDERS** (Complete this part only if DBE goal is not met.)

List all subcontractors solicited, both DBE and non-DBE contractors, truckers and suppliers for this specific project. Include initial contact and follow-up dates, as well as methods of contact (Phone, Fax, Email, etc.).

The good faith effort submission should include evidence of the solicitation effort such as; copies of request for bids sent to DBE firms with the name of the DBE firms clearly identified; fax confirmation sheets showing the date, fax number, name of DBE firm, confirmation the fax was sent; list of all DBE firms called time of call, person contacted and response; or email lists with time/day sent clearly indicated etc.

Subcontractor/Supplier/Service provider	DBE?		Phone #	Dates, Method of Contact		Description of Work	Dollar Amount of Quote
	Yes	No		DATES	METHO DS		
1	<input type="checkbox"/>	<input type="checkbox"/>					
2	<input type="checkbox"/>	<input type="checkbox"/>					
3	<input type="checkbox"/>	<input type="checkbox"/>					
4	<input type="checkbox"/>	<input type="checkbox"/>					
5	<input type="checkbox"/>	<input type="checkbox"/>					
6	<input type="checkbox"/>	<input type="checkbox"/>					
7	<input type="checkbox"/>	<input type="checkbox"/>					
8	<input type="checkbox"/>	<input type="checkbox"/>					
9	<input type="checkbox"/>	<input type="checkbox"/>					
10	<input type="checkbox"/>	<input type="checkbox"/>					
	<input type="checkbox"/>	<input type="checkbox"/>					
	<input type="checkbox"/>	<input type="checkbox"/>					

Make additional copies of this page as necessary.

Prime Contractor \_\_\_\_\_

State Project # \_\_\_\_\_

Make additional copies of this page as necessary.

PART E - DBE COMMITMENTS (All Primes complete this section.)							Dollar Amount Of Bid/Proposal.
DBEs COMMITMENTS List only DBEs who have executed Exhibit A forms. DBE Contractor Information							Description of Work
1.	DBE Contractor Name						
	Contact Name						
	Address						
	Federal Tax #		E-mail				
	Phone		Fax:				
2.	DBE Contractor Name						
	Contact Name						
	Address						
	Federal Tax #		E-mail				
	Phone		Fax				
3.	DBE Contractor Name						
	Contact Name						
	Address						
	Federal Tax #		E-mail				
	Phone		Fax				
4.	DBE Contractor Name						
	Contact Name						
	Address:						
	Federal Tax #		E-mail				
	Phone		Fax				
5.	DBE Contractor Name						
	Contact Name						
	Address:						
	Federal Tax #		E-mail				
	Phone		Fax				

Make additional copies of this page as necessary.

PART F – NON-DBE QUOTES SUBMITTED (All Primes complete this section.)							Dollar Amount Of Bid/Proposal.	Will Firm Be Used?
NON-DBE COMMITMENTS List all non-DBE firms who provided quotes or bid proposals. Indicate whether the quotes were accepted.								
NON-DBE Contractor Information								
1.	NON-DBE Contractor Name							Y or N
	Contact Name							
	Address							
	Federal Tax #		E-mail					
	Phone		Fax:					
2.	NON-DBE Contractor Name							Y or N
	Contact Name							
	Address							
	Federal Tax #		E-mail					
	Phone		Fax					
3.	NON-DBE Contractor Name							Y or N
	Contact Name							
	Address							
	Federal Tax #		E-mail					
	Phone		Fax					
4.	NON-DBE Contractor Name							Y or N
	Contact Name							
	Address:							
	Federal Tax #		E-mail					
	Phone		Fax					

Minnesota Department of Transportation  
Office of Civil Rights

**PART G - DBEs QUOTED BUT NOT SELECTED (Complete this part only if DBE goal is not met.)**

**If DBE quotes were rejected, attach a separate sheet of paper explaining the specific basis for rejecting any DBE quote.**

Note: Additional cost is not in itself sufficient reason for rejecting a DBE quote. However, prime contractors need not accept excessive or unreasonable DBE quotes. The contractor's standing within its industry, membership in specific groups (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bid in the contractor's efforts to meet the project goal. (See Instructions attached to this form.)

QUOTED DOLLARS	DBEs WHO QUOTED, BUT WERE NOT SELECTED	TYPE OF WORK QUOTED	REASON NOT SELECTED
1.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
2.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
3.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
4.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
5.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
6.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
7.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
8.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
9.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
10.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
11.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
12.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
13.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
14.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
15.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
16.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
17.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
18.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
19.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
20.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
<b>NUMBER OF DBEs SOLICITED</b>			



**PART H – CERTIFICATION / GOOD FAITH EFFORTS AFFIDAVIT (All Primes complete this section.)**

STATE OF MINNESOTA

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, being first duly sworn, state as follows:  
(Full Name)

1. I am the \_\_\_\_\_ of \_\_\_\_\_  
(Title) (Name of Individual, Company, Partnership, or Corporation)

that has been identified as the apparent low bidder of the State Project \_\_\_\_\_.

2. I have the authority to make this affidavit for and on behalf of the apparent low bidder.

3. The information provided in the attached Certificate of Good Faith Efforts is true and accurate to the best of my belief.

SIGNATURE (Bidder or Authorized Representative)	TITLE	DATE

Subscribed and sworn to before me

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_, 20\_\_\_\_

Under Sec. 26.107 of "49 CFR Part 26," dated February 2, 1999, if at any time, the Department or a recipient has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, the Department may initiate suspension or debarment proceedings against the person or firm under 49 CFR Part 29, take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, and/or refer the matter to the Department of Justice for criminal prosecution under 18 U.S.C. 1001, which prohibits false statements in Federal programs.



Minnesota Department of Transportation  
Office of Civil Rights

Page \_\_\_\_ of \_\_\_\_

Contractor Payment Form

State Project Number \_\_\_\_\_ Prime Contractor: \_\_\_\_\_ 1<sup>st</sup> Tier Sub-Contractor: \_\_\_\_\_

Payment Reporting Period: From: \_\_\_\_\_ To: \_\_\_\_\_

Instructions: All Contractors making payments to Contractors/Subcontractors/Suppliers/Service Providers, regardless of their tier or DBE status, are required to complete and submit this form to the Mn/DOT Office of Civil Rights (OCR), each time payments are made to sub-contractors until final payment is made. Failure to comply with this form and Minnesota's prompt payment law may cause progress payments to be withheld. Submit one copy of this form to the Mn/DOT OCR and one copy to the Project Engineer, no later than ten (10) days after receiving payment from Mn/DOT.

Contractor Information		Original Contract Amount		Committed DBE %	Actual DBE % to Date
Name:					
Address:					
Phone:					
Name of Subcontractor/Supplier		DBE? (Check if Yes)	Description of Work		Subcontract Amount
1.		<input type="checkbox"/>	1.		1.
2.		<input type="checkbox"/>	2.		2.
3.		<input type="checkbox"/>	3.		3.
4.		<input type="checkbox"/>	4.		4.
5.		<input type="checkbox"/>	5.		5.
6.		<input type="checkbox"/>	6.		6.
Amount of Current Payment		Total Sub-Contractor Payment-To-Date	% Paid to date	Final Payment? Yes/No	
1.		1.	1.	1.	
2.		2.	2.	2.	
3.		3.	3.	3.	
4.		4.	4.	4.	
5.		5.	5.	5.	
6.		6.	6.	6.	
Company Officials Signature & Title		Date Signed	Name & Title of Individual Completing Report (Type or Print Clearly)		
Title:					
Phone:	Fax:	Phone:	Fax:		

**Minnesota Department of Transportation  
Office of Civil Rights**

**Contractor Payment Form Instructions**

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**State Project Number:** As identified by Mn/DOT

**Prime Contractor:** The contractor who was awarded the project.

**1<sup>st</sup> Tier Sub-Contractor:** If a subcontractor has a subcontractor, list the 1<sup>st</sup> tier sub here and then list all of the 2<sup>nd</sup> tier Subcontractor(s) in the Name of Subcontractor/Supplier area. *All areas should be filled in regarding the prime as well.*

**Payment Reporting Period:** This should reflect the current payment period.

**Contractor Information:** Contractor's information who is making the payments. This must be filled out completely.

**Original Contract Amount:** Prime contractor's contract dollar amount.

**Committed DBE%:** The DBE commitment certified in the prime's bid is the minimum percentage of DBE participation on the project.

**Actual DBE % to Date:** The percent met to date.

**Name of Subcontractor/Supplier:** Company who is working for the prime contractor on this project.  
(If a sub was contracted for more than one contract, list each contract separately.)

**DBE?:** Check this box if the subcontractor is a certified DBE in Minnesota. You can find a listing of the DBE firms certified in Minnesota at <http://www.dot.state.mn.us/eeocm/ucpdirectory.html>.

**Description of Work:** The type of work the subcontractor was contracted for.

**Subcontract Amount:** The dollar amount the subcontractor was contracted for.

**Amount of Current Payment:** The current dollar amount being paid to the sub.

**Total Sub-Contractor Payment-to-Date:** Total dollar amount paid to the sub including the current payment.

**% Paid to Date:** Percentage of total payments made in comparison to the prime's award amount.

**Final Payment?:** Indicate whether this is the final payment being made to the sub.

**Company Officials Signature & Title:** Self explanatory

**Name & Title of Individual Completing Report:** Self explanatory

*If you have questions on completing the form, call the Office of Civil Rights at (651) 366-3073.*

## DBE Total Payment Affidavit

Pursuant to Mn/DOT Standard Specifications for Construction, Section 1908, the following DBE Total Payment Affidavit shall be executed by the Prime Contractor after all work contracted to be performed by DBEs has been satisfactorily completed. Identify each DBE firm that worked on the project and the dollar amount of the subcontract. If the dollar value of a DBE firm's total work is less than the DBE's original subcontract, please attach an explanation.

State Project Number: \_\_\_\_\_

STATE OF MINNESOTA

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, being first duly sworn, state as follows:  
(Full Name)

1. I am the authorized representative of \_\_\_\_\_ (Name of Individual, Company, Partnership or Corporation) and I have the authority to make this affidavit for and on behalf of said Prime Contractor.

2. The following DBE Subcontractors/Suppliers/Service Providers/Sub-Consultants have performed work on the above project with a total dollar value of:

	Name of DBE Firm	Dollar Amount of Subcontract	Total Dollar Amount
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			

3. I have fully informed myself regarding the accuracy of the statements made in this Affidavit.

Signed: \_\_\_\_\_  
(Prime Contractor or Authorized Representative)

Subscribed and sworn to before me

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
(Notary Public)

My commission expires \_\_\_\_\_, 20\_\_\_\_

Prepare Affidavit in duplicate. Submit one original to the Project Engineer, and one original to:

**Mn/DOT's Office of Civil Rights**  
395 John Ireland Blvd., MS 170  
St. Paul, MN 55155

### No. 1908 – Standard Specifications for Construction

Unless the Contractor has presented an Affidavit showing the total dollar amounts of work performed by Disadvantaged Business Enterprises (DBE), final payment may be withheld.



Prime Contractor \_\_\_\_\_ State Project # \_\_\_\_\_

## Certificate of Good Faith Efforts Consolidated Form (GFE Form) Instructions

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The ALB should include in its Good Faith Efforts Information a cover letter addressed to the Mn/DOT Office of Civil Rights. The cover letter should identify in detail the efforts the ALB made to meet the DBE goal. The ALB is required to thoroughly document its solicitation efforts and justify any bids, quotes or proposals it rejects from properly certified DBE firms. **THE COVER LETTER SHOULD INCLUDE EACH OF THE FACTORS IDENTIFIED IN 49 C.F.R. Part 26, App. A, SUMMARIZED AS FOLLOWS:**

1. This GFE Consolidated Form must be completed. Please note that "Part D - SOLICITATION OF SUBCONTRACTORS, SUPPLIERS, AND SERVICE PROVIDERS" on pg. 4, and "Part G - DBES QUOTED BUT NOT SELECTED" on pg. 7 are to be completed **ONLY IF** the DBE goal is **NOT** met.
2. A statement of the ALB's overall plan for obtaining DBE participation noting barriers or challenges the ALB encountered in obtaining DBE participation. Specifically, detailing how all necessary and reasonable steps to achieve the DBE goal or other requirements which, by their scope, intensity, and appropriateness to the objective of achieving the DBE goal, could reasonably be expected to obtain sufficient DBE participation - even if the ALB was not successful.
3. The solicitation requirement is two-fold and includes the *initial solicitation* and appropriate *follow up* with interested DBEs. Evidence of solicitation efforts of DBEs such as copies of requests for bids sent to DBE firms with identification of the firms clearly stated; fax confirmation sheets displaying the date, fax number, name of DBE firm, and status; list of all DBE firms called, date, contact name and response; or email distribution lists with date and time clearly indicated. The solicitations to DBEs should provide sufficient information about the type of work available on the project.
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5. A detailed explanation of the reason for not accepting DBE quotes. Each non-accepted quote should be addressed individually. Provide an explanation of the efforts the ALB made to negotiate in good faith with interested DBEs. Provide information about any cost comparisons that were considered in the decision to not accept DBE quotes. **The fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for an ALB's failure to meet the contract DBE goal, as long as such costs are reasonable.** The ALB is not required to accept higher quotes from DBEs if the price difference is excessive or unreasonable. If the ALB makes such a determination it should provide a written explanation for this conclusion.
6. A detailed explanation of the ALB's efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance.
7. A detailed explanation of the ALB's efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services.
8. A detailed explanation of the effective use by the ALB of the services of available minority/women community organizations; minority/women contractor's groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.
9. Provide copies of any advertisements placed on hardcopy or websites. Advertisements should include information about the project(s), type(s) of work for which quotes are being solicited, and specific contact information for the ALB.

Contact the Mn/DOT Office of Civil Rights if you have any questions; main line 651-366-3073



Prime Contractor \_\_\_\_\_ State Project # \_\_\_\_\_

## Guidelines for Certificate of Good Faith Efforts (GFE) Consolidated Form

The Apparent Low Bidder (ALB) must show that it took all necessary and reasonable steps to achieve the DBE goal which by their scope, intensity and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if not fully successful. The criteria for evaluating good faith efforts is described in 49 CFR, Part 26, Appendix A which can be found at <http://www.osdbu.dot.gov/DBEProgram/>. ALBs submitting good faith efforts information should address the following factors in its Good Faith Efforts Information submission. The information below is not a mandatory list, nor is it exclusive or exhaustive.

### Criteria 1: "Solicitation Efforts"

1. Did the ALB use the current DBE Directory to identify DBEs?
2. Did the ALB perform sufficient solicitations given the amount of work to meet the DBE goal?
3. Did the ALB break out and solicit for work in economically feasible units?
4. Did the ALB solicit for work that it otherwise would self-perform?
5. Were DBEs with business operations in close geographic proximity to the project solicited?

### Criteria 2: "Timely Notice"

1. Did the ALB send timely written (e-mail/fax) solicitation notices to certified DBE firms?
2. Did the solicitation notice include the following:
  - a. Name and location of project
  - b. Bid date
  - c. Scope of work requested
  - d. Location where DBE's can review plans and specifications
  - e. Date and time to submit quote
  - f. Contact name for technical assistance
  - g. Any special requirements

### Criteria 3: "Finance and Bonding Outreach"

1. Did the ALB offer assistance by providing contacts for possible bonding, insurance, and lines of credit?
2. Did the ALB offer assistance by providing technical assistance in these areas?

### Criteria 4: "ALB follow-Up"

1. Did the contractor maintain a "follow-up log" from the initial solicitation? The log must show:
  - a. Type of contact (fax, telephone, e-mail)
  - b. Name of contact person
  - c. Name of DBE firm
  - d. Date and time of DBE contacted
  - e. Response received
  - f. Reason for DBE not bidding project (if applicable)

### Criteria 5: "ALB DBE Program Outreach and Support"

1. Did the ALB host DBE informational workshops, attend Minnesota Department of Transportation (Mn/DOT) sponsored DBE events; such as networking sessions, DBE conferences, DBE/ALB meetings, etc.?
2. Did the ALB contact minority business organizations about DBE opportunities?

Note: The Submission Due Date is **the fifth business day after the bid letting date** in accordance with the Mn/DOT DBE Special Provisions.

Contact the Mn/DOT Office of Civil Rights if you have any questions; main line 651-366-3073

Prime Contractor \_\_\_\_\_ State Project # \_\_\_\_\_

**MINNESOTA DEPARTMENT OF TRANSPORTATION  
OFFICE OF CIVIL RIGHTS  
CERTIFICATE OF GOOD FAITH EFFORTS CONSOLIDATED FORM**

This Certificate of Good Faith Efforts Consolidated form (GFE Consolidated form) is required to demonstrate that the Apparent Low Bidder (ALB) either met the DBE goal, or made adequate good faith efforts to meet the DBE goal pursuant to 49 C.F.R. Part 26, Appendix A. Please refer to the instruction sheet prior to completing the form. This form and all supporting Good Faith Efforts documentation must be provided to the Mn/DOT Office of Civil Rights prior to the Submission Due Date as defined within the DBE Special Provisions.

PART A – PRIME CONTRACTOR'S INFORMATION (All Primes complete this section.)				
COMPANY NAME				
ADDRESS	STREET	CITY	STATE	ZIP CODE
PHONE #	FAX #	EMAIL ADDRESS		
CONTACT PERSON		TITLE		

PART B - PROJECT DESCRIPTION (All Primes complete this section.)			
STATE PROJECT #		CONTRACT # (If Applicable)	<input type="checkbox"/> Attach copy of Mn/DOT Advertisement
ANTICIPATED START DATE (Based on progress schedule)		EXPECTED COMPLETION DATE (Based on progress schedule)	
DBE GOAL	% VS	DBE COMMITMENT	(Type of GFE Information – Check one only) <input type="checkbox"/> Pre-award <input type="checkbox"/> Post-award/Execution
TOTAL DBE PARTICIPATION DOLLARS BASED ON ADVERTISED DBE GOAL (Total prime bid \$ * DBE % Goal)			

PART C – PROJECT SUMMARY AMOUNTS (All Primes complete this section.)	
TOTAL PRIME BID	\$
TOTAL DOLLARS COMMITTED TO NON-DBE'S (Not including suppliers)	\$
TOTAL DOLLARS COMMITTED TO DBE'S (Not including suppliers)	\$
TOTAL DOLLARS COMMITTED TO DBE SUPPLIERS (Total paid to DBE suppliers 60%)	\$
WORKED PERFORMED BY PRIME	\$
PERCENT OF WORK PERFORMED BY PRIME	%
TOTAL DBE PARTICIPATION REMAINING (Difference between DBE goal \$ and DBE commitment \$)	\$

Prime Contractor \_\_\_\_\_

State Project # \_\_\_\_\_

**PART D – SOLICITATION OF SUBCONTRACTORS, SUPPLIERS, AND SERVICE PROVIDERS (Complete this part only if DBE goal is not met.)**

List all subcontractors solicited, both DBE and non-DBE contractors, truckers and suppliers for this specific project. Include initial contact and follow-up dates, as well as methods of contact (Phone, Fax, Email, etc.).

The good faith effort submission should include evidence of the solicitation effort such as: copies of request for bids sent to DBE firms with the name of the DBE firms clearly identified; fax confirmation sheets showing the date, fax number, name of DBE firm, confirmation the fax was sent; list of all DBE firms called time of call, person contacted and response; or email lists with time/day sent clearly indicated etc.

Subcontractor/Supplier/Service provider	DBE?		Phone #	Dates, Method of Contact		Description of Work	Dollar Amount of Quote
	Yes	No		DATES	METHODS		
1	<input type="checkbox"/>	<input type="checkbox"/>					
2	<input type="checkbox"/>	<input type="checkbox"/>					
3	<input type="checkbox"/>	<input type="checkbox"/>					
4	<input type="checkbox"/>	<input type="checkbox"/>					
5	<input type="checkbox"/>	<input type="checkbox"/>					
6	<input type="checkbox"/>	<input type="checkbox"/>					
7	<input type="checkbox"/>	<input type="checkbox"/>					
8	<input type="checkbox"/>	<input type="checkbox"/>					
9	<input type="checkbox"/>	<input type="checkbox"/>					
10	<input type="checkbox"/>	<input type="checkbox"/>					
	<input type="checkbox"/>	<input type="checkbox"/>					
	<input type="checkbox"/>	<input type="checkbox"/>					

Make additional copies of this page as necessary.



Prime Contractor

State Project #

# **PART E - DBE COMMITMENTS (All Primes complete this section.)**

## **DBEs COMMITMENTS**

List only DBEs who have executed Exhibit A forms.

### **DBE Contractor Information**

DBE Contractor Information						Description of Work	Dollar Amount Of Bid/Proposal.
1.	DBE Contractor Name						
	Contact Name						
	Address						
	Federal Tax #		E-mail				
	Phone		Fax				
2.	DBE Contractor Name						
	Contact Name						
	Address						
	Federal Tax #		E-mail				
	Phone		Fax				
3.	DBE Contractor Name						
	Contact Name						
	Address						
	Federal Tax #		E-mail				
	Phone		Fax				
4.	DBE Contractor Name						
	Contact Name						
	Address						
	Federal Tax #		E-mail				
	Phone		Fax				
5.	DBE Contractor Name						
	Contact Name						
	Address						
	Federal Tax #		E-mail				
	Phone		Fax				

Make additional copies of this page as necessary.

Prime Contractor

State Project #

# **PART F – NON-DBE COMMITMENTS (All Primes complete this section.)**

## **NON-DBE COMMITMENTS**

List all non-DBE Subcontractors, truckers, materials/suppliers & other service providers you will use on this project.  
(Attach additional pages as needed)

### **NON-DBE Contractor Information**

NON-DBE Contractor Information						Description of Work	Dollar Amount Of Bid/Proposal.
<b>1.</b>	NON-DBE Contractor Name						
	Contact Name						
	Address						
	Federal Tax #	E-mail					
	Phone	Fax					
<b>2.</b>	NON-DBE Contractor Name						
	Contact Name						
	Address						
	Federal Tax #	E-mail					
	Phone	Fax					
<b>3.</b>	NON-DBE Contractor Name						
	Contact Name						
	Address						
	Federal Tax #	E-mail					
	Phone	Fax					
<b>4.</b>	NON-DBE Contractor Name						
	Contact Name						
	Address						
	Federal Tax #	E-mail					
	Phone	Fax					
<b>5.</b>	NON-DBE Contractor Name						
	Contact Name						
	Address						
	Federal Tax #	E-mail					
	Phone	Fax					

Make additional copies of this page as necessary.

**PART G - DBEs QUOTED BUT NOT SELECTED (Complete this part only if DBE goal is not met.)**

If DBE quotes were rejected, attach a separate sheet of paper explaining the specific basis for rejecting any DBE quote. Note: Additional cost is not in itself sufficient reason for rejecting a DBE quote. However, prime contractors need not accept excessive or unreasonable DBE quotes. The contractor's standing within its industry, membership in specific groups (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bid in the contractor's efforts to meet the project goal. (See Instructions attached to this form.)

QUOTED DOLLARS	DBEs WHO QUOTED, BUT WERE NOT SELECTED	TYPE OF WORK QUOTED	REASON NOT SELECTED
1.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
2.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
3.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
4.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
5.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
6.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
7.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
8.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
9.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
10.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
11.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
12.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
13.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
14.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
15.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
16.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
17.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
18.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
19.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
20.			Clearly state specific basis for rejecting the DBE on a separate sheet of paper
NUMBER OF DBEs SOLICITED			

**PART H – CERTIFICATION / GOOD FAITH EFFORTS AFFIDAVIT (All Primes complete this section.)**

STATE OF MINNESOTA

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, being first duly sworn, state as follows:  
(Full Name)

1. I am the \_\_\_\_\_ of \_\_\_\_\_  
(Title) (Name of Individual, Company, Partnership, or Corporation)

that has been identified as the apparent low bidder of the State Project \_\_\_\_\_.

2. I have the authority to make this affidavit for and on behalf of the apparent low bidder.

3. The information provided in the attached Certificate of Good Faith Efforts is true and accurate to the best of my belief.

SIGNATURE (Bidder or Authorized Representative)	TITLE	DATE

Subscribed and sworn to before me

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_, 20\_\_\_\_\_

Under Sec. 26.107 of "49 CFR Part 26," dated February 2, 1999, if at any time, the Department or a recipient has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, the Department may initiate suspension or debarment proceedings against the person or firm under 49 CFR Part 29, take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, and/or refer the matter to the Department of Justice for criminal prosecution under 18 U.S.C. 1001, which prohibits false statements in Federal programs.

## **EQUAL EMPLOYMENT OPPORTUNITY (EEO) SPECIAL PROVISIONS**

This section of Special Provisions contains the Equal Employment Opportunity (EEO) rules and regulations for highway construction projects in Minnesota which are federally and/or State funded.

The source of funding determines which EEO regulations and goals (Federal and/or State goals) apply to a specific project. When a project contains funding from both Federal and State sources, both sets of regulations apply, and the Minnesota Department of Transportation (Mn/DOT) monitors and reviews projects at both levels.

If the project contains any Federal funding, and has a total dollar value exceeding \$10,000, Federal EEO regulations and goals apply (pages 2, 6, 7-8, 9-14, 15, 16-17, 22-26, 27-38). The Mn/DOT Office of Civil Rights monitors and reviews these projects on behalf of the Federal Highway Administration (FHWA), under Federal statutes (23 USC 140) and rules (23 CFR 230).

If the project contains any State funding, and has a total dollar value exceeding \$100,000, State EEO regulations and goals apply (pages 2, 3, 4, 5, 6, 9-14, 16-22). Mn/DOT's Office of Civil Rights monitors and reviews these projects in conjunction with the Minnesota Department of Human Rights under Minnesota Statutes §363A.36 and its accompanying rules.

Mn/DOT has established a single review and monitoring process which meets both Federal and State requirements.

Please note that Pages 23-38 of these Special Provisions may be omitted from projects with no Federal funding.

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**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION  
TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY  
(23 USC 140, 23 CFR 230 and Minnesota Statute 363A.36)**

1. The offerer's or bidder's attention is called to the "Minnesota Affirmative Action Requirements" (EEO Page 4), the "Specific Federal Equal Employment opportunity Responsibilities" (EEO Pages 7-8), the "Standard Federal and State Equal Employment Opportunity Construction Contract Specifications" (EEO Pages 9-14), the "Equal Opportunity Clause" (EEO Page 15) and "Required Contract Provisions - Federal-Aid Construction Contracts" (EEO Pages 27-37).
2. The goals and timetables for minority and women participation, expressed in percentage terms of hours of labor for the Contractor's aggregate work force in each trade on all construction work in the covered area, are as shown on EEO Pages 16-17.

These goals are applicable to all the Contractor's construction work (whether or not it is State or State assisted, Federal or federally assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and non-federally involved construction.

The Contractor's compliance with the regulations in 41 CFR Part 60-4, and/or Minnesota Statutes §363A.36 and its accompanying rules shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a) for Federal or federally assisted projects, and Minnesota Statutes §363A.36, and its accompanying rules for State or State assisted projects, and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and women employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority and women employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4 for Federal or federally-assisted projects and/or Minnesota Statutes §363A.36 and its accompanying rules for state or state-assisted projects. Compliance with the goals will be measured against the total work hours performed.

3. If the contract is federally funded, the Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within ten working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. If the contract is state funded, the Contractor shall provide written notification to the Compliance Division, Minnesota Department of Human Rights, Army Corps of Engineers Centre, 190 E 5th Street, Suite 700, St. Paul, Minnesota 55101 within ten working days of award of any construction subcontract in excess of \$100,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the Subcontractor; employer identification number of the Subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.
4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is the county or counties of the State of Minnesota where the work is to be performed.

## **NOTICE TO ALL PRIME AND SUBCONTRACTORS PRE-AWARD REPORTING REQUIREMENTS**

In order to ensure compliance with Federal and State laws and regulations (23 USC 140, and 23 CFR 230, and Minnesota Statutes §363A.36) and to ensure Mn/DOT's ability to monitor and enforce compliance efforts, the following requirements apply if the apparent low bid exceeds \$ 5,000,000.00:

- 1) The Apparent Low Bidder ("ALB") must provide to Mn/DOT the "EEO-8 Form" (also entitled "EEO Compliance Review Report"), which must provide detail on the contractor's total company workforce in the State of Minnesota during the twelve month period preceding July 30<sup>th</sup> of the previous year (Office and/or clerical personnel need not to be included).
- 2) The ALB must provide to Mn/DOT a work plan for meeting the minority and women employment goals established by the Minnesota Department of Human Rights, for the project in question. The work plan must include, at a minimum (1) how the ALB will incorporate its current minority and women employees in the ALB's efforts to meet the established goals; and (2) a contingency plan if the ALB has determined that its current workforce is not sufficient in order to achieve the established employment goals. If the ALB relies in whole or in part upon unions as a source of employees, then the ALB must (1) include a list of established organizations that are likely to yield qualified minority and women candidates if those union(s) are unable to provide a reasonable flow of minority and women candidates in their work plan; and (2) document the method by which these organizations will refer candidates to the ALB for employment opportunities. All bidders are hereby notified that the U.S. Department of Labor has determined that a contractor will not be excused from complying with the Federal and State laws and regulations cited above based solely on the fact that a contractor has a collective bargaining agreement with a union providing for the union to be the exclusive source of referral and that the union failed to refer minority employees. A contractor may obtain a list of organizations likely to yield qualified minority and women candidates from the Mn/DOT Office of Civil Rights.
- 3) The ALB must provide to Mn/DOT the ALB's total workforce and labor projections for the project (represented in hours), the ALB's projected total number of minority hours for the project, and the ALB's projected total number of women hours for the project. The details must include the trade(s) that will be utilized in order to complete the project.

The ALB must submit documents as required to comply with this section no later than five business days after the date that bids for the contract are opened. The five day period starts the business day following the date that bids were opened. The required documents must be received prior to Contract Award, and must be sent to the Mn/DOT Office of Civil Rights – 395 John Ireland Blvd., Mail Stop 170 St. Paul, MN 55155-1899. Submittal of the documents described in (1), (2) and (3) is required for contract award to the ALB. The submitted documents will be used as a tool to assist contractors in meeting employment goals; the content itself will not be evaluated for the purpose of determining contract award.

## MINNESOTA AFFIRMATIVE ACTION REQUIREMENTS

1. It is hereby agreed between the parties to this contract that Minnesota Statutes, Section §363A.36, and its accompanying rules are incorporated into any contract between these parties based upon this specification or any modification of it. A copy of Minnesota Statutes, Section §363A.36, and its accompanying rules is available upon request from the contracting agency. The Contractor hereby agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
2. It is hereby agreed between the parties to this contract that this agency requires that the Contractor meet affirmative action criteria as provided for by Minnesota Statutes §363A.36 and its accompanying rules. It is the intent of the Minnesota Department of Transportation to fully carry out its responsibility for requiring affirmative action, and to implement sanctions for failure to meet these requirements. Failure by a contractor to implement an affirmative action plan, meet project employment goals for minority and women employment or make a good faith effort to do so may result in revocation of his/her Certificate of Compliance or suspension or revocation of the contract (Minnesota Statutes §363A.36).
3. Under the affirmative action obligation imposed by the Human Rights Act, Minnesota Statutes, Section §363A.36, contractors shall take affirmative action to employ and advance in employment minority, female, and qualified disabled individuals at all levels of employment. Affirmative action must apply to all employment practices, including but not limited to hiring, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor shall recruit, hire, train and promote persons in all job titles, without regard to race, color, creed, religion, sex, national origin, marital status, status with regard to public assistance, physical or mental disability, sexual orientation or age except where such status is a bona fide occupational qualification. These affirmative action requirements of the Minnesota Human Rights Act are consistent with but broader than the Federal requirements as covered in this contract.
4. Affirmative Action for disabled workers. The Contractor shall not discriminate against any employee or applicant for employment because of a physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled individuals without discrimination based upon their physical or mental disability in all employment practices such as employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training (including apprenticeship). In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minnesota Statutes, section §363A.36 and the rules and relevant orders of the Minnesota Department of Human Rights pursuant to the Minnesota Human Rights Act.
5. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the commissioner of the Minnesota Department of Human Rights. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment minority, women and qualified disabled employees and applicants for employment, and the rights of applicants and employees. **A poster entitled "Contractor Non-discrimination is the Law" may be obtained from: Compliance Unit, Minnesota Department of Human Rights, Army Corps of Engineers Centre, 190 E. 5th Street, Suite 700, St. Paul, Minnesota 55101. (651) 296-5663, TTY 296-1283, Toll Free 1-800-657-3704.**
6. The Contractor shall notify each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Minnesota Statutes, section §363A.36 of the Minnesota Human Rights Act, and is committed to take affirmative action to employ and advance in employment minority, women and qualified physically and mentally disabled individuals.



## **APPROPRIATE WORK PLACE BEHAVIOR ON Mn/DOT CONSTRUCTION PROJECTS UTILIZING STATE FUNDS**

It is the Minnesota Department of Transportation's (Mn/DOT's) policy to provide a workplace free from violence, threats of violence, harassment and discrimination. Mn/DOT has established a policy of zero tolerance for violence in the workplace. Contractors who perform work on Mn/DOT construction projects, or local government entities or public agencies utilizing state funds on highway construction projects, shall maintain a workplace free from violence, harassment and discrimination (See definitions, below).

### **Definitions:**

1. Violence is the threatened or actual use of force which results in or has a high likelihood of causing fear, injury, suffering or death. Employees are prohibited from taking reprisal against anyone who reports a violent act or threat.

2. Harassment is the conduct of one employee (toward another employee) which has the purpose or effect of 1) unreasonably interfering with the employee's work performance, and/or 2) creating an intimidating, hostile or offensive work environment. Harassment is not legitimate job-related efforts of supervisor to direct/evaluate an employee or to have an employee improve work performance.

A. Unlawful discriminatory harassment is harassment which is based on these characteristics: race, color, creed, religion, national origin, sex, disability, age, marital status, status with regard to public assistance or sexual orientation. Managers, supervisors and employees shall not take disciplinary or retaliatory action against employees who make complaints of sexual harassment.

Sexual harassment is unwelcome sexual advances, requests for sexual favors, or sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature, when submission to that conduct or communication is 1) made a term or condition, either explicitly or implicitly, of obtaining employment; or 2) is used as a factor in decisions affecting an individual's employment; or 3) when that conduct or communication has the purpose or effect of substantially interfering with an individual's employment or creating an intimidating, hostile or offensive work environment, and the employer knows or should have known of the existence of the harassment and fails to take timely and appropriate action. Examples include but are not limited to insulting or degrading sexual remarks or conduct; threats, demands or suggestions that status is contingent upon toleration or acquiescence to sexual advances; displaying in the workplace sexually suggestive objects, publications or pictures, or retaliation against employees for complaining about the behavior cited above or similar behaviors.

B. General harassment is harassment which is not based on the above characteristics. Examples may include, but are not limited to: physically intimidating behavior and/or threats of violence; use of profanity (swearing), vulgarity; ridiculing, taunting, belittling or humiliating another person; inappropriate assignments of work or benefits; derogatory name calling.

3. Discrimination includes actions which cause a person, solely because of race, color, creed, religion, national origin, sex, disability, age, marital status, status with regard to public assistance or sexual orientation to be subject to unequal treatment.

Prime Contractors who work on Mn/DOT projects shall ensure that their managers, supervisors, foremen/women and employees are familiar with Mn/DOT's policy on appropriate work place behavior; and shall ensure that their subcontractors are familiar with this policy. Managers, supervisors and foremen/women will respond to, document, and take appropriate action in response to all reports of violence, threats of violence, harassment or discrimination. Failure to comply with this policy may result in cancellation, termination or suspension of contracts or subcontracts currently held and debarment from further such contracts or subcontracts as provided by statute. If you need additional information or training regarding this policy, please contact the Office of Civil Rights at (651) 366-3073.

## NOTICE TO ALL PRIME AND SUBCONTRACTORS REPORTING REQUIREMENTS

1. In order to monitor compliance with Federal Statutes 23 USC 140 and 23 CFR 230, and Minnesota Statutes §363A.36, all prime contractors and subcontractors are required to complete a Mn/DOT Monthly Employment Compliance Report each month for each project (Form EEO-13, sample copy at EEO Pages 20-21.) Prime contractors are also required to complete a Contractor Employment Data Report (Form EEO-12, sample copy at EEO Pages 18-19) once prior to work commencing on the project, unless one has been completed already within the calendar year.

The prime contractor of each project collects Monthly Employment Compliance Reports from each subcontractor who performed work during the month, and completes a Monthly Employment Compliance Report on its own work force. **For the month of July only, an EEO-13 is required for each payroll period within the month of July.** The prime contractor submits the EEO-13 forms to the Mn/DOT Project Engineer by the 15th day of the subsequent month.

Failure to submit the required reports in the allowable time frame will be cause for the imposition of contract sanctions.

It is the intent of Mn/DOT to implement monitoring measures on each project to ensure that each prime contractor and subcontractor is promoting the full realization of equal employment opportunities. Any project may be scheduled for an in depth on-site contract compliance review. During the scheduled on-site review, the Contractor will be required to provide to Mn/DOT documentation of its "good faith efforts" as shown in EEO Pages 10-13, at 7 a-p of this contract.

2. If a Federally funded project requires On-the-Job-Training (OJT) participation, information is provided in the contract and can be located by referring to the Table of Contents for Division S. (OJT is also listed as a bid line item under Trainees.) When a contract requires OJT participation, the Prime Contractor shall submit a training plan as indicated in the Proposal. The training plan shall include the job classification titles of trainees, planned training activities and the approximate start date of trainees.
3. When a Contractor selects a trainee applicant for OJT, the Contractor completes an On the Job Training Program-Trainee Assignment form (sample copy at EEO Page 23) and submits it to the Contract Compliance Specialist (CCS) assigned to the project for approval. The CCS notifies the Contractor and Project Engineer when the applicant is approved.
4. Hours of work performed by OJT employees shall be documented on a monthly basis on the Certification of On-The-Job Training Hours form, (Mn/DOT Form No. 21860, sample copy at EEO Page 24). The Contractor shall submit the original and one copy to the Project Engineer, and one copy to the CCS assigned to the project.

Do not remove forms from this contract. Please duplicate forms from the copies in this contract, or the Mn/DOT Office of Civil Rights will provide these forms upon request. Please call the Office of Civil Rights, (651) 366-3073.

# **SPECIFIC FEDERAL EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES**

## **(23 CFR 230, Subpart A, Appendix A, FAPG June 6, 1996)**

### **1. General.**

a. Equal employment opportunity requirements not to discriminate and to take affirmative action to assure equal opportunity as required by Executive Order 11246 and Executive Order 11375 are set forth in Required contract Provisions (Form PR-1273 or 1316, as appropriate) and these Special Provisions which are imposed pursuant to Section 140 of title 23, U.S.C., as established by Section 22 of the Federal-Aid Highway Act of 1968. The requirements set forth in these Special Provisions shall constitute the specific affirmative action requirements for project activities under this contract and supplement the equal employment opportunity requirements set forth in the Required Contract Provisions.

b. The contractor will work with the State highway agencies and the Federal Government in carrying out equal employment opportunity obligations and in their review of his/her activities under the contract.

c. The contractor and all his/her subcontractors holding subcontracts not including material suppliers, of \$10,000 or more, will comply with the following minimum specific requirement activities of equal employment Opportunity: (The equal employment opportunity requirements of Executive Order 11246, as set forth in volume 6, Chapter 4, Section 1, Subsection 1 of the Federal-Aid Highway program Manual, are applicable to material suppliers as well as contractors and subcontractors.) The contractor will include these requirements in every subcontract of \$10,000 or more with such modification of language as is necessary to make them binding on the subcontractor.

### **2. Equal Employment Opportunity Policy.**

The contractor will accept as his operating policy the following statement which is designed to further the provision of equal employment opportunity to all persons without regard to their race, color, religion, sex, or national origin, and to promote their full realization of equal employment through a positive continuing program:

It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, or national origin. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre apprenticeship, and/or on-the-job training.

**3. Equal Employment Opportunity Officer.** The contractor will designate and make known to State highway agency

contracting officers an equal employment opportunity officer (hereinafter referred to as the EEO Officer) who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of equal employment opportunity and who must be assigned adequate authority and responsibility to do so.

### **4. Dissemination of Policy.**

a. All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action will be made fully cognizant of, and will implement, the contractor's equal employment opportunity policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

(1). Periodic meetings of supervisory and personnel office staff will be conducted before the start of work and then not less often than once every six months, at which time the contractor's equal employment opportunity policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

(2). All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer or other knowledgeable company official, covering all major aspects of the contractor's equal employment opportunity obligations within thirty days following their reporting for duty with the contractor.

(3). All personnel who are engaged in direct recruitment for the project will be instructed by the EEO officer or appropriate company official in the contractor's procedures for locating and hiring minority group employees.

b. In order to make the contractor's equal employment policy known to all employees, prospective employees and potential sources of employees, i.e., schools, employment agencies, labor unions (where appropriate), college placement officers, etc., the contractor will take the following actions:

(1). Notices and posters setting forth the contractor's equal employment opportunity policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

(2). The contractor's equal employment opportunity policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

### **5. Recruitment.**

a. When advertising for employees, the contractor will include in all advertisements for employees the notation "An Equal Opportunity Employer." All such advertisements will be published in newspapers or other publications having a large circulation among minority groups in the area from which the project work force would normally be derived.

b. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants, including, but not limited to, State employment agencies, schools, colleges and minority group organizations. To meet this requirement, the contractor will, through his/her EEO Officer, identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.

In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with equal employment opportunity contract provisions. (The U.S. Department of Labor has held that where the implementation of such agreements have the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)

c. The contractor will encourage his present employees to refer minority group applicants for employment by posting appropriate notices or bulletins in areas accessible to all such employees. In addition, information and procedures with regard to referring minority group applicants will be discussed with employees.

**6. Personnel Actions.** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, or national origin. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

**SPECIFIC FEDERAL EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES (con=t)**

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with his/her obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all his avenues of appeal.

**7. Training and Promotion.**

a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees and applicants for employment.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e. apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event the Training Special Provision is provided under this contract, this subparagraph will be superseded as indicated in Attachment 2.

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The Contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

**8. Unions.** If a contractor relies in whole or in part upon unions as a source of employees, the contractor will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the

unions, and to effect referrals by such unions of minority and female employees. Actions by the contractor either directly or through a contractor's association acting as agent will include the procedures set forth below:

a. The contractor will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group members and women so that they may qualify for higher paying employment.

b. The contractor will use best efforts to incorporate an equal employment opportunity clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, or national origin.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the State highway department and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, or national origin; making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The U.S. Department of Labor has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the State highway agency.

**9. Subcontracting.**

a. The contractor will use his best efforts to solicit bids from and to utilize minority group subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of minority-owned construction firms from

State highway agency personnel.

b. The contractor will use his best efforts to ensure subcontractor compliance with their equal employment opportunity obligations.

**10. Records and Reports:**

a. The contractor shall keep such records as necessary to determine compliance with the contractor's equal employment opportunity obligations. The records kept by the contractor will be designed to indicate:

(1) The number of minority and non minority group members and women employed in each work classification on the project.

(2) The progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to contractor's who rely in whole or in part on unions as a source of their work force),

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees, and

(4) The progress and efforts being made in securing the services of minority group subcontractors with meaningful minority and female representation among their employees.

b. All such records must be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the State highway agency and the Federal Highway Administration.

c. The contractors will submit an annual report to the State highway agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form PR-1391. If on-the-job training is being required by a "Training Special Provision", the contractor will be required to furnish Form FHWA 1409.

**STANDARD FEDERAL AND STATE EQUAL EMPLOYMENT OPPORTUNITY  
CONSTRUCTION CONTRACT SPECIFICATIONS  
(41 CFR 60-4.3 and Minnesota Statutes 363A.36)**

*Unless noted, the following apply to both Federal/federally assisted projects and State/state assisted projects. Item 3 applies to Federal/federally assisted projects only*

1. As used in these specifications:
  - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
  - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
  - c. "Employer Identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
  - d. "Minority" includes:
    - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
    - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
    - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
    - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 (\$100,000 for State projects) the provisions of these specifications and the Notice which contains the applicable goals for minority and women participation and which is set forth in the solicitations from which this contract resulted.
3. If the Contractor is participating (pursuant to 41 CFR 60-4, 5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work on the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7(a) to (p) of these specifications (itemized as 4 [a] to [o], Minnesota Rules

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CONTRACT SPECIFICATIONS (con't)**

5000.3535). The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minorities and utilization the Contractor should (shall, for State or state assisted projects) reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor shall make substantially uniform progress toward its goals in each craft during the period specified. Covered construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Federal goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any office of Federal Contract Compliance programs or from Federal procurement contracting officers. State goals are published periodically in the State Register in notice form, and may be obtained from the Minnesota Department of Human Rights or the Minnesota Department of Transportation Office of Civil Rights. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement nor the failure by a union, with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications and Executive Order 11246 and its associated rules and regulations for Federal or federally assisted projects, and Minnesota Statutes, Section §363A.36 of the Minnesota Human Rights Act, or the rules adopted under the Act for State or state assisted projects.
6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall be trained according to training programs approved by the Minnesota Department of Human Rights, the Minnesota Department of Labor and Industry, or the United States Department of Labor.
7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications must be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following (referred to in Minnesota Rules 5000.3535 as items 4(a) to (o):
  - (a) Ensure and maintain, or for State or state assisted projects make a good faith effort to maintain, a working environment free of harassment, intimidation, and coercion at all sites and in all facilities at which the Contractor's employees are assigned to work. For

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Federal or federally assisted projects, the Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or women individuals working at such sites or in such facilities.

- (b) Establish and maintain a current list of minority and women recruitment sources, provide written notification to minority and women recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
- (c) Maintain a current file of the names, addresses, and telephone numbers of each minority and woman off-the-street applicant and minority or woman referral from a union, a recruitment source, or community organization and of what action was taken with respect to each individual. If the individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore along with whatever additional actions the Contractor may have taken.
- (d) Provide immediate written notification to the commissioner of the Minnesota Department of Human Rights for State or state assisted projects, or the director of the Office of Federal Contract Compliance for Federal or federally assisted projects, when the union, or unions with which the Contractor has a collective bargaining agreement, has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
- (e) Develop on-the-job training opportunities and/or participate in training programs for the areas which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the State of Minnesota for State or state assisted projects or the Department of Labor, for Federal or federally assisted projects. The Contractor shall provide notice of these programs to the sources compiled under (b).
- (f) Disseminate the Contractor's equal employment opportunity policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its equal employment opportunity obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and women employees at least once a year; and by posting the company equal employment opportunity policy on bulletin boards accessible to all employees at each location where construction work is performed.

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- (g) Review, at least annually, the company's equal employment opportunity policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions; including specific review of these items with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the first day of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- (h) Disseminate the Contractor's equal employment opportunity policy externally by including it in any advertising in the news media, specifically including minority and women news media, and providing written notification to and discussing the Contractor's equal employment opportunity policy with other contractors and subcontractors with whom the Contractor does or anticipates doing business.
- (i) Direct its recruitment efforts, both oral and written, to minority, women, and community organizations; to schools with minority and women students; and to minority and women recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations, such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- (j) Encourage present minority and women employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and women youth, both on the site and in other areas of a Contractor's work force.
- (k) Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3. (This requirement applies only to Federal and federally assisted projects.)
- (l) Conduct, at least annually, an inventory and evaluation at least of all minority and women personnel for promotional opportunities; and encourage these employees to seek or to prepare for, through appropriate training, such opportunities. (This is Item 4(k) in Minnesota Rules.)
- (m) Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment-related activities to ensure that the equal employment opportunity policy and the Contractor's obligations under these specifications are being carried out. (This is item 4(l) in Minnesota Rules.)



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- (n) Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes. (This is item 4(m) in Minnesota Rules.)
  - (o) Document and maintain a record of all solicitations or offers for subcontracts from minority and women construction contractors and suppliers, including circulation of solicitations to minority and women contractor associations and other business associations. (This is item 4(n) in Minnesota Rules.)
  - (p) Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's equal employment opportunity policies and affirmative action obligations. (This is item 4(o) in Minnesota Rules.)
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7(a) to (p) for Federal or federally assisted projects, and 4(a)-(o) for State or state assisted projects). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7(a) to (p) or 4(a) to (o) of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and women work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be defense for the Contractor's noncompliance.
9. A single goal for minorities and a separate single goal for women have been established. The Contractor however, is required to provide equal employment opportunity and to take affirmative action for all minority groups both male and female, and all women both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order for Federal or federally assisted projects, or Minnesota Rules for State or state assisted projects, if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order or Minnesota Rules part 5000.3520 if a specific minority group is under-utilized).
10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, creed, religion, sex, or national origin. Minnesota Statutes §363A.36, part 5000.3535 (Subp. 7) also prohibits discrimination with regard to marital status, status with regard to public assistance, disability, age, or sexual orientation.

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11. The Contractor shall not enter into any subcontract with any person or firm debarred from government contracts under the federal Executive Order 11246 or a local human rights ordinance, or whose certificate of compliance has been suspended or revoked pursuant to Minnesota Statutes, Section §363A.36.
12. The Contractor shall carry out such sanctions for violation of these specifications and of the equal opportunity clause, including suspension, termination, and cancellation of existing contracts as may be imposed or ordered pursuant to Minnesota Statutes, Section §363A.36, and its implementing rules for State or state assisted projects, or Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs for Federal or federally assisted projects. Any contractor who fails to carry out such sanctions shall be in violation of these specifications and Minnesota Statutes, Section §363A.36, or Executive Order 11246 as amended.
13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications (paragraph 4 in Minnesota Rules 5000.3535), so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of these Specifications or Minnesota Statutes, Section §363A.36 and its implementing rules, or Executive Order 11246 and its regulations, the commissioner or the director shall proceed in accordance with Minnesota Rules part 5000.3570 for State or state assisted projects, or 41 CFR 60-4.8 for Federal or federally assisted projects.
14. The Contractor shall designate a responsible official to monitor all employment-related activity to ensure that the company equal employment opportunity policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Minnesota Department of Human Rights or the Government, and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (for example, mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
15. Nothing provided in this part shall be construed as a limitation upon the application of other state or federal laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents.

## EQUAL OPPORTUNITY CLAUSE (41 CFR Part 60-1.4 b, 7-1-96 Edition)

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; and, selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the State Highway Agency (SHA) setting forth the provisions of this nondiscrimination clause.
2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
3. The Contractor will send to each labor union or representative of workers with which the Contractor has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Contractor will comply with all provisions of Executive Order 11246, Equal Employment Opportunity, dated September 24, 1965, and of the rules, regulations (41 CFR Part 60), and relevant orders of the Secretary of Labor.
5. The Contractor will furnish all information and reports required by Executive Order 11246 and by rules, regulations, and orders of the Secretary of Labor, pursuant thereto, and will permit access to its books, records, and accounts by the Federal Highway Administration (FHWA) and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract, or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraph (1) through (7) in every subcontract or purchase order so that such provisions will be binding upon each subcontractor or vendor, unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246. The Contractor will take such action with respect to any subcontract or purchase order as the Secretary of Labor, SHA, or the Federal Highway Administration (FHWA) may direct as a means of enforcing such provisions, including sanctions for noncompliance. In the event a contractor becomes a party to litigation by a subcontractor or vendor as a result of such direction, the contractor may request the SHA to enter into such litigation to protect the interest of the State. In addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

## Minority and Women Employment Goals

County	Federal Goals		State Goals	
	Minority Goal	Women Goal	Minority Goal	Women Goal
Aitkin	2.2%	6.9%	5%	6%
Anoka	2.9%	6.9%	11%	6%
Becker	0.7%	6.9%	6%	6%
Beltrami	2.0%	6.9%	6%	6%
Benton	0.5%	6.9%	3%	6%
Big Stone	2.2%	6.9%	4%	6%
Blue Earth	2.2%	6.9%	4%	6%
Brown	2.2%	6.9%	4%	6%
Carlton	1.2%	6.9%	5%	6%
Carver	2.9%	6.9%	11%	6%
Cass	2.2%	6.9%	6%	6%
Chippewa	2.2%	6.9%	4%	6%
Chisago	2.9%	6.9%	3%	6%
Clay	0.7%	6.9%	6%	6%
Clearwater	2.0%	6.9%	6%	6%
Cook	1.2%	6.9%	5%	6%
Cottonwood	0.8%	6.9%	4%	6%
Crow Wing	2.2%	6.9%	6%	6%
Dakota	2.9%	6.9%	11%	6%
Dodge	0.9%	6.9%	4%	6%
Douglas	2.2%	6.9%	6%	6%
Faribault	2.2%	6.9%	4%	6%
Fillmore	0.9%	6.9%	4%	6%
Freeborn	0.9%	6.9%	4%	6%
Goodhue	2.2%	6.9%	4%	6%
Grant	2.2%	6.9%	6%	6%
Hennepin	2.9%	6.9%	11%	6%
Houston	0.6%	6.9%	4%	6%
Hubbard	2.0%	6.9%	6%	6%
Isanti	2.2%	6.9%	3%	6%
Itasca	1.2%	6.9%	5%	6%
Jackson	0.8%	6.9%	4%	6%
Kanabec	2.2%	6.9%	3%	6%
Kandiyohi	2.2%	6.9%	3%	6%
Kittson	2.0%	6.9%	6%	6%
Koochiching	1.2%	6.9%	5%	6%
Lac Qui Parle	2.2%	6.9%	4%	6%
Lake	1.2%	6.9%	5%	6%
Lake of the Woods	2.0%	6.9%	6%	6%
Le Sueur	2.2%	6.9%	4%	6%
Lincoln	0.8%	6.9%	4%	6%
Lyon	0.8%	6.9%	4%	6%

Minnesota Department of Transportation  
Office of Civil Rights

Special Provisions  
Revised 05/10

County	Federal Goals		State Goals	
	Minority Goal	Women Goal	Minority Goal	Women Goal
Mahnomen	2.0%	6.9%	6%	6%
Marshall	2.0%	6.9%	6%	6%
Martin	2.2%	6.9%	4%	6%
McLeod	2.2%	6.9%	3%	6%
Meecker	2.2%	6.9%	3%	6%
Mille Lacs	2.2%	6.9%	3%	6%
Morrison	2.2%	6.9%	6%	6%
Mower	0.9%	6.9%	4%	6%
Murray	0.8%	6.9%	4%	6%
Nicollet	2.2%	6.9%	4%	6%
Nobles	0.8%	6.9%	4%	6%
Norman	2.0%	6.9%	6%	6%
Olmsted	1.4%	6.9%	4%	6%
Otter Tail	2.2%	6.9%	6%	6%
Pennington	2.0%	6.9%	6%	6%
Pine	2.2%	6.9%	3%	6%
Pipestone	0.8%	6.9%	4%	6%
Polk	1.2%	6.9%	6%	6%
Pope	2.2%	6.9%	6%	6%
Ramsey	2.9%	6.9%	11%	6%
Red Lake	2.0%	6.9%	6%	6%
Redwood	0.8%	6.9%	4%	6%
Renville	2.2%	6.9%	3%	6%
Rice	2.2%	6.9%	4%	6%
Rock	0.8%	6.9%	4%	6%
Roseau	2.0%	6.9%	6%	6%
Scott	2.9%	6.9%	11%	6%
Sherburne	0.5%	6.9%	3%	6%
Sibley	2.2%	6.9%	4%	6%
St. Louis	1.0%	6.9%	5%	6%
Stearns	0.5%	6.9%	3%	6%
Steele	0.9%	6.9%	4%	6%
Stevens	2.2%	6.9%	6%	6%
Swift	2.2%	6.9%	4%	6%
Todd	2.2%	6.9%	6%	6%
Traverse	2.2%	6.9%	6%	6%
Wabasha	0.9%	6.9%	4%	6%
Wadena	2.2%	6.9%	6%	6%
Waseca	2.2%	6.9%	4%	6%
Washington	2.9%	6.9%	11%	6%
Watsonwan	2.2%	6.9%	4%	6%
Wilkin	0.7%	6.9%	6%	6%
Winona	0.6%	6.9%	4%	6%
Wright	2.9%	6.9%	3%	6%
Yellow Medicine	2.2%	6.9%	4%	6%

Minnesota Department of Transportation Office of Civil Rights Contractor Employment Data		1. Contractor Name and Address:  Phone: _____					
2. Employment Data a) Name: Last Name, First Name, MI		b) Social Security #	c) New Hire (Y or N)	d) Ethnicity	e) Gender (M or F)	f) Trade/Foreman, Supervisors, Managers	g) Level (A, J, or T)
1.							
2.							
3.							
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26.							
27.							

**INSTRUCTIONS FOR EEO-12  
CONTRACTOR EMPLOYMENT DATA**

**This form should be submitted at the Pre-Con to the Project Engineer prior to the start of your first Mn/DOT construction project for the calendar year. (Prime and Subs)**

1. Contractor Name and Address self-explanatory.
2. Employment Data information will coincide with your employment records.
  - 2a. Name should be listed First Name, Middle Initial, and Last Name. This will enable Mn/DOT EEO staff to readily identify individuals on all projects.
  - 2b. Social Security Number self-explanatory.
  - 2c. New Hire is to be indicated with a "Y" for Yes or an "N" for No. "New Hire" is an employee who has not worked for you in any capacity or on any other project within the current calendar year.
  - 2d. Ethnicity can be indicated by Black (B), Hispanic (H), American Indian/Alaskan Native (AI), Asian/Pacific Islander (AP), or White (W).
  - 2e. Gender is to be indicated with an "M" for Males or an "F" for Females.
  - 2f. Trade/Foreman, Supervisors, Managers self-explanatory. List trade that applies unless the employee fits one of the other three categories.
  - 2g. Level "A" is for an Apprentice, "J" is for a Journey Worker, and "T" is for a Mn/DOT approved Trainee.

If you have questions about filling out this form, contact the Office of Civil Rights at (651) 366-3073.  
(Please make copies as you need them.)

**This information can be submitted electronically via the web, through Mn/DOT's Work force Information Tracking Initiative (WITI) Program. To open a free account to gain access to WITI or to find out more about this possibility please contact Mn/DOT's Office of Civil Rights at (651) 366-3321.**

<b>Minnesota Department of Transportation</b> <b>Office of Civil Rights</b> <b>Monthly Employment Compliance Report</b> <b>EEO-13</b>		<b>1. SP</b> <input type="checkbox"/> <b>SAP</b> <input type="checkbox"/> (Check one) <b>SP#</b>		<b>3. Contractor Name:</b>  <b>Federal Tax ID:</b>		<b>4. Prime</b> <input type="checkbox"/> <b>Subcontractor</b> <input type="checkbox"/> (check one)	
		<b>County or City</b>		<b>Street Address:</b>		<b>5. Dollar Amount of Contract:</b>	
		<b>2. Reporting Period</b> _____ <b>to</b> _____		<b>City, State Zip</b>		<b>6. Percent of Completion:</b>	
<b>7. Employment Data</b> <b>a) Name: Last, First Middle Initial</b>		<b>b) Social Security #</b>		<b>c) New Hire (Y or N)</b>		<b>d) Ethnicity</b>	
				<b>e) Gender (M or F)</b>		<b>Trade/Foreman, Supervisors, Managers</b>	
						<b>g) Level (A, J or T)</b>	
						<b>h) Hours Worked This Period</b>	
1.							
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<b>8. Contract Goals</b>		<b>9. Prepared by: (Signature)</b>		<b>10. Reviewed by: (Signature)</b>	
<b>MINNESOTA GOALS</b>		<b>MINNESOTA GOALS</b>		<b>MINNESOTA GOALS</b>	
<b>%</b>	<b>Minority</b>	<b>%</b>	<b>Minority</b>	<b>%</b>	<b>Minority</b>
<b>%</b>	<b>Women</b>	<b>%</b>	<b>Women</b>	<b>%</b>	<b>Women</b>
<b>Print Name:</b>		<b>Print Name:</b>		<b>Print Name:</b>	
<b>Title:</b>		<b>Title:</b>		<b>Title:</b>	
<b>Date:</b>		<b>Date:</b>		<b>Date:</b>	
<b>Phone:</b>		<b>Phone:</b>		<b>Phone:</b>	
<b>Fax:</b>		<b>Fax:</b>		<b>Fax:</b>	



**INSTRUCTIONS FOR EEO-13**  
MONTHLY EMPLOYMENT COMPLIANCE REPORT

- 1.-5. Self-explanatory – State Project #, county project is located in, are you a prime or sub, and contract value.
6. Percent of Completion is the estimated percentage of work completed including this reporting period.
7. Employment Data information will coincide with your employment records. All professional, supervisory and managerial hours actually worked on the project site must be included, whether or not they appear on the certified payroll.
  - 7a. Name should be listed Last Name, First Name, and Middle Initial. This will enable Mn/DOT EEO staff to readily identify individuals on all projects.
  - 7b. Social Security Number self-explanatory.
  - 7c. New Hire is to be indicated with a “Y” for Yes or an “N” for No. “New Hire” is an employee who has not worked for you in any capacity or on any other project within the current calendar year.
  - 7d. Ethnicity can be indicated by Black (B), Hispanic (H), American Indian/Alaskan Native (AI), Asian/Pacific Islander (AP), or White (W).
  - 7e. Gender is to be indicated with an “M” for Males or an “F” for Females.
  - 7f. Trade/Foreman, Supervisors, Managers list the trade that applies unless the employee fits one of the other three categories.
  - 7g. Level “A” is for an Apprentice, “J” is for a Journey Worker, and “T” is for a Mn/DOT approved Trainee.
  - 7h. Hours Worked for This Period will be all hours worked by the individual, for each trade, during the specified reporting period.
8. Contract Goals are the percent of total project hours to be worked by minority and women employees. The goals are determined by the geographic location and source of funding for the project. Projects in excess of \$100,000 with any State funding must meet the State Employment Goals. Projects in excess of \$10,000 with any Federal funding must meet the Federal Employment Goals. (See chart on EEO Pages 15-16.) Minority and women employee hours shall be distributed evenly throughout the length of the project and in every trade and craft that performs work on the project.  
  
% Obtained is the percent of the total project hours worked by minority and women employees, up to and including this reporting period.
9. Prepared by Contractor Designee is the signature of the prime or subcontractor’s EEO officer/designee.
10. Reviewed by Project Engineer is the signature of the Mn/DOT staff monitoring the project.

If you have questions about filling out this form, contact the Office of Civil Rights at (651) 366-3073.  
(Please make copies as you need them.)

This information can be submitted electronically via the web, through Mn/DOT’s Work force Information Tracking Initiative (WITI) Program. To open a free account to gain access to WITI or to find out more about this possibility please contact Mn/DOT’s Office of Civil Rights at (651) 366-3321.

## EEO COMPLIANCE REVIEW REPORT

Total Company Workforce in the State of Minnesota  
(For 12 Month Period Preceding July 30<sup>th</sup> of the previous year)

Name and Address of Contractor

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Name and Title of Corporate Officer

Name of EEO Officer

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Job Categories	Total Employees		Total Minorities		Blacks		Asian/ Pacific Is.		American Indian		Hispanic		On-the-Job Trainees	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Officials (Mangers)														
Supervisors														
Foremen/Women														
Clerical (field)														
Equipment Operators														
Mechanics														
Truck Drivers														
Iron Workers														
Carpenters														
Cement Masons														
Electricians														
Pipefitters & Plumbers														
Painters														
Laborers														
<b>Total</b>														
On-the-Job Trainees														



MINNESOTA DEPARTMENT OF TRANSPORTATION  
**ON-THE-JOB TRAINING PROGRAM**  
**TRAINEE ASSIGNMENT**

SP #: \_\_\_\_\_ Location: \_\_\_\_\_ District: \_\_\_\_\_

Project Engineer: \_\_\_\_\_ Phone: (    ) \_\_\_\_\_

Prime Contractor: \_\_\_\_\_ Phone: (    ) \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

EEO Officer: \_\_\_\_\_ Project Manager: \_\_\_\_\_

Tel: \_\_\_\_\_

Training Contractor: \_\_\_\_\_ Phone: (    ) \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

EEO Officer: \_\_\_\_\_ Project Manager: \_\_\_\_\_

Tel: \_\_\_\_\_

**TRAINEE**

Job Title or Trade Classification: \_\_\_\_\_ Number of Training Hours on this Project: \_\_\_\_\_

Name: \_\_\_\_\_ S.S.#: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: (    ) \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

EEO Officer: \_\_\_\_\_ Project Manager: \_\_\_\_\_

Tel: \_\_\_\_\_

Approximate Start Date: \_\_\_\_\_

Approximate Completion Date: \_\_\_\_\_

Is the trainee a member of a certified apprenticeship program?

If YES, verify with Apprenticeship Form or Indenture Number: \_\_\_\_\_

1. Ethnic Background: **Hispanic** \_\_\_\_\_; **Black** \_\_\_\_\_; **Asian/Pacific Islander** \_\_\_\_\_; **White** \_\_\_\_\_;  
**Am. Ind/Alaskan** \_\_\_\_\_ (Verify with Tribal I.D. # or Affiliation \_\_\_\_\_).

2. **Male**; \_\_\_\_\_ **Female**; \_\_\_\_\_.

MINNESOTA DEPARTMENT OF TRANSPORTATION  
OFFICE OF CIVIL RIGHTS  
**CERTIFICATION OF ON-THE-JOB TRAINING HOURS  
FEDERAL-AID-PROJECTS**

*Contractor: submit original and one copy monthly to the project engineer*

CONTRACTOR			REPORTING PERIOD:
ADDRESS			S.P. NO. (LOW):
			F.P. NO.:

  

TRAINEE	HOURS WORKED PREVIOUSLY	HOURS WORKED THIS PERIOD	TOTAL HOURS TO DATE

AMOUNT OF CLAIM \_\_\_\_\_ HOURS @ \_\_\_\_\_ PER HOUR = \$ \_\_\_\_\_

Progress of Trainee(s)   ☐ Excellent   ☐ Very Good   ☐ Good   ☐ Below Good

COMMENTS (Please detail any supplementary training offered):

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**CONTRACTOR:**

The undersigned contractor hereby certifies that the listed employees are bonafide trainees as required by the On-the-Job Training Special Provision and that they have worked the hours as reported above.

\_\_\_\_\_  
*Contractor Signature/Title*

\_\_\_\_\_  
*Date*

**PROJECT ENGINEER:**

I hereby certify that the On-the-Job training hours reported above have been reviewed and found correct.

\_\_\_\_\_  
*Engineer Signature/Title*

\_\_\_\_\_  
*Date*





**On- the -Job Training Program  
Trainee Termination Form**

Contractor Name		County	Prime	Sub
Address	City	State	Zip	
EEO Officer		Phone #	e-mail address	
Trainee Name		Phone #	Social Security No.	
Address	City	State	Zip	
<b>Race/Ethnicity</b>				
<input type="checkbox"/> Hispanic		<input type="checkbox"/> White		<input type="checkbox"/> Asian
<input type="checkbox"/> Black		<input type="checkbox"/> American Indian		<input type="checkbox"/> Other
Gender		Classification/Trade		S.P. #
<input type="checkbox"/> Female	<input type="checkbox"/> Male			
Start Date	Termination Date	Hours Assigned	Hrs Completed	

**Reason for Termination/Separation/Layoff:**

<input type="checkbox"/> Construction phase completed
<input type="checkbox"/> Death
<input type="checkbox"/> Fired (please explain below)
<input type="checkbox"/> Illness/health problems
<input type="checkbox"/> Lack of transportation and /or travel distance
<input type="checkbox"/> Military duty
<input type="checkbox"/> Relocated
<input type="checkbox"/> Personal
<input type="checkbox"/> Quit to work for another company
<input type="checkbox"/> Other (please explain below)

**Please provide comments:**

--

Contractor's Representative Signature

Title

Date

**MAIL or Fax THE ORIGINAL and MAINTAIN COPY:**

395 John Ireland Boulevard  
St. Paul, MN 55155-1899  
Office of Civil Rights M.S. 170  
On-The -Job Training Coordinator  
Fax # 651/366-3129

**REQUIRED CONTRACT PROVISIONS  
FEDERAL-AID CONSTRUCTION CONTRACTS**

Form-1273

(52 FR 36920, October 2, 1987, revised October 21, 1993, FHWA Electronic Version March 10, 1994)

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IV. Payment of Predetermined Minimum Wage .....	EEO-30
V. Statements and Payrolls.....	EEO-33
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VIII. Safety: Accident Prevention.....	EEO-34
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XI. Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion.....	EEO-35
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**I. GENERAL**

1. These contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

2. Except as otherwise provided for in each section, the contractor shall insert in each subcontract all of the stipulations contained in these Required Contract Provisions, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these Required Contract Provisions.

3. A breach of any of the stipulations contained in these Required Contract Provisions shall be sufficient grounds for termination of the contract.

4. A breach of the following clauses of the Required Contract Provisions may also be grounds for debarment as provided in 29 CFR 5.12:

- Section I, paragraph 2;
- Section IV, paragraphs 1, 2, 3, 4, and 7;
- Section V, paragraphs 1 and 2a through 2g.

5. Disputes arising out of the labor standards provisions of Section IV (except paragraph 5) and Section V of these Required Contract Provisions shall not be subject to the general disputes clause of this contract.

Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor (DOL) as set forth in 29 CFR 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the DOL, or the contractor's employees or their representatives.

6. Selection of Labor: During the performance of this contract, the contractor shall not:

- a. discriminate against labor from any other State, possession, or territory of the United States (except for employment preference for Appalachian contracts, when applicable, as specified in Attachment A), or
- b. employ convict labor for any purpose within the limits of the project unless it is labor performed by convicts who are on parole, supervised release, or probation.

**II. NONDISCRIMINATION**

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

**1. Equal Employment Opportunity:**

Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630 and 41 CFR 60) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The Equal Opportunity Construction Contract Specifications set forth under 41 CFR 60-4.3 and the provisions of the American Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

- a. The contractor will work with the State highway agency (SHA) and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the contract.
- b. The contractor will accept as his operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, preapprenticeship, and/or on-the-job training."

**REQUIRED CONTRACT PROVISIONS (con't)**

**2. EEO Officer:**

The contractor will designate and make known to the SHA contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of EEO and who must be assigned adequate authority and responsibility to do so.

**3. Dissemination of Policy:**

All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

- a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.
- b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.
- c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minority group employees.
- d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.
- e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

**4. Recruitment:**

When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minority groups in the area from which the project work force would normally be derived.

- a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.
- b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals,

he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with EEO contract provisions.

(The DOL has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)

- c. The contractor will encourage his present employees to refer minority group applicants for employment. Information and procedures with regard to referring minority group applicants will be discussed with employees.

**5. Personnel Actions:**

Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

- a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
- b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
- c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
- d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of his avenues of appeal.

**6. Training and Promotion:**

- a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.
- b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event a special provision for training is provided under



### REQUIRED CONTRACT PROVISIONS (con't)

this contract, this subparagraph will be superseded as indicated in the special provision.

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

#### 7. Unions:

If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees.

Actions by the contractor either directly or through a contractor's association acting as agent will include the procedures set forth below:

a. The contractor will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.

b. The contractor will use best efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the SHA and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The DOL has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the SHA.

#### 8. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:

The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection

and retention of subcontractors, including procurement of materials and leases of equipment.

a. The contractor shall notify all potential subcontractors and suppliers of his/her EEO obligations under this contract.

b. Disadvantaged business enterprises (DBE), as defined in 49 CFR 23, shall have equal opportunity to compete for and perform subcontracts which the contractor enters into pursuant to this contract. The contractor will use his best efforts to solicit bids from and to utilize DBE subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of DBE construction firms from SHA personnel.

c. The contractor will use his best efforts to ensure subcontractor compliance with their EEO obligations.

#### 9. Records and Reports:

The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the SHA and the FHWA.

a. The records kept by the contractor shall document the following:

- (1) The number of minority and non-minority group members and women employed in each work classification on the project;
- (2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women;
- (3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and
- (4) The progress and efforts being made in securing the services of DBE subcontractors or subcontractors with meaningful minority and female representation among their employees.

b. The contractors will submit an annual report to the SHA each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form PR-1391. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data.

### III. NONSEGREGATED FACILITIES

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

a. By submission of this bid, the execution of this contract or subcontract, or the consummation of this material supply agreement or purchase order, as appropriate, the bidder, Federal-aid construction contractor, subcontractor, material supplier, or vendor, as appropriate, certifies that the firm

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does not maintain or provide for its employees any segregated facilities at any of its establishments, and that the firm does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The firm agrees that a breach of this certification is a violation of the EEO provisions of this contract. The firm further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability.

b. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive, or are, in fact, segregated on the basis of race, color, religion, national origin, age or disability, because of habit, local custom, or otherwise. The only exception will be for the disabled when the demands for accessibility override (e.g. disabled parking).

c. The contractor agrees that it has obtained or will obtain identical certification from proposed subcontractors or material suppliers prior to award of subcontracts or consummation of material supply agreements of \$10,000 or more and that it will retain such certifications in its files.

#### **IV. PAYMENT OF PREDETERMINED MINIMUM WAGE**

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural minor collectors, which are exempt.)

##### **1. General:**

a. All mechanics and laborers employed or working upon the site of the work will be paid unconditionally and not less often than once a week and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations (29 CFR 3) issued by the Secretary of Labor under the Copeland Act (40 U.S.C. 276c) the full amounts of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment. The payment shall be computed at wage rates not less than those contained in the wage determination of the Secretary of Labor (hereinafter "the wage determination") which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor or its subcontractors and such laborers and mechanics. The wage determination (including any additional classifications and wage rates conformed under paragraph 2 of this Section IV and the DOL poster (WH-1321) or Form FHWA-1495) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. For the purpose of this Section, contributions made or costs reasonably anticipated for bona fide fringe benefits under

Section 1(b)(2) of the Davis-Bacon Act (40 U.S.C. 276a) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section IV, paragraph 3b, hereof. Also, for the purpose of this Section, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in paragraphs 4 and 5 of this Section IV.

b. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein, provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.

c. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1, 3, and 5 are herein incorporated by reference in this contract.

##### **2. Classification:**

a. The SHA contracting officer shall require that any class of laborers or mechanics employed under the contract, which is not listed in the wage determination, shall be classified in conformance with the wage determination.

b. The contracting officer shall approve an additional classification, wage rate and fringe benefits only when the following criteria have been met:

- (1) the work to be performed by the additional classification requested is not performed by a classification in the wage determination;
- (2) the additional classification is utilized in the area by the construction industry;
- (3) the proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
- (4) with respect to helpers as defined in Section IV.4(c), when such a classification prevails in the area in which the work is performed.

c. If the contractor or subcontractors, as appropriate, the laborers and mechanics (if known) to be employed in the additional classification or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the DOL, Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, D.C. 20210. The Wage and Hour Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

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d. In the event the contractor or subcontractors, as appropriate, the laborers or mechanics to be employed in the additional classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. Said Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

e. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 2c or 2d of this Section IV shall be paid to all workers performing work in the additional classification from the first day on which work is performed in the classification.

**3. Payment of Fringe Benefits:**

a. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor or subcontractors, as appropriate, shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly case equivalent thereof.

b. If the contractor or subcontractor, as appropriate, does not make payments to a trustee or other third person, he/she may consider as a part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

**4. Apprentices and Trainees (Programs of the U.S. DOL):**

**a. Apprentices:**

(1) Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the DOL, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau, or if a person is employed in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice.

(2) The allowable ratio of apprentices to journeyman-level employees on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate listed in the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor or subcontractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman-level hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

(3) Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator for the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

(4) In the event the Bureau of Apprenticeship and Training, or a State apprenticeship agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor or subcontractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the comparable work performed by regular employees until an acceptable program is approved.

**b. Trainees:**

(1) Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the DOL, Employment and Training Administration.

(2) The ratio of trainees to journeyman-level employees on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training

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Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(3) Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman-level wage rate on the wage determination which provides for less than full fringe benefits for apprentices, in which case such trainees shall receive the same fringe benefits as apprentices.

(4) In the event the Employment and Training Administration withdraws approval of a training program, the contractor or subcontractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**c. Helpers:**

Helpers will be permitted to work on a project if the helper classification is specified and defined on the applicable wage determination or is approved pursuant to the conformance procedure set forth in Section IV.2. Any worker listed on a payroll at a helper wage rate, who is not a helper under an approved definition, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.

**5. Apprentices and Trainees (Programs of the U.S. DOT):**

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

**6. Withholding:**

The SHA shall upon its own action or upon written request of an authorized representative of the DOL withhold, or cause to be withheld, from the contractor or subcontractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing

wage requirements which is held by the same prime contractor, as much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the SHA contracting officer may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

**7. Overtime Requirements:**

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, watchmen, or guards (including apprentices, trainees, and helpers described in paragraphs 4 and 5 above) shall require or permit any laborer, mechanic, watchman, or guard in any workweek in which he/she is employed on such work, to work in excess of 40 hours in such workweek unless such laborer, mechanic, watchman, or guard receives compensation at a rate not less than one-and-one-half times his/her basic rate of pay for all hours worked in excess of 40 hours in such workweek.

**8. Violation:**

**Liability for Unpaid Wages; Liquidated Damages:** In the event of any violation of the clause set forth in paragraph 7 above, the contractor and any subcontractor responsible thereof shall be liable to the affected employee for his/her unpaid wages. In addition, such contractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer, mechanic, watchman, or guard employed in violation of the clause set forth in paragraph 7, in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by the clause set forth in paragraph 7.

**9. Withholding for Unpaid Wages and Liquidated Damages:**

The SHA shall upon its own action or upon written request of any authorized representative of the DOL withhold, or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 8 above.

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### V. STATEMENTS AND PAYROLLS

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural collectors, which are exempt.)

#### 1. Compliance with Copeland Regulations (29 CFR 3):

The contractor shall comply with the Copeland Regulations of the Secretary of Labor which are herein incorporated by reference.

#### 2. Payrolls and Payroll Records:

a. Payrolls and basic records relating thereto shall be maintained by the contractor and each subcontractor during the course of the work and preserved for a period of 3 years from the date of completion of the contract for all laborers, mechanics, apprentices, trainees, watchmen, helpers, and guards working at the site of the work.

b. The payroll records shall contain the name, social security number, and address of each such employee; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalent thereof of the types described in Section 1(b)(2)(B) of the Davis Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. In addition, for Appalachian contracts, the payroll records shall contain a notation indicating whether the employee does, or does not, normally reside in the labor area as defined in Attachment A, paragraph 1. Whenever the Secretary of Labor, pursuant to Section IV, paragraph 3b, has found that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis Bacon Act, the contractor and each subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially possible, that the plan or program has been communicated in writing to the laborers or mechanics affected, and show the cost anticipated or the actual cost incurred in providing benefits. Contractors or subcontractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprentices and trainees, and ratios and wage rates prescribed in the applicable programs.

c. Each contractor and subcontractor shall furnish, each week in which any contract work is performed, to the SHA resident engineer a payroll of wages paid each of its employees (including apprentices, trainees, and helpers, described in Section IV, paragraphs 4 and 5, and watchmen and guards engaged on work during the preceding weekly payroll period). The payroll submitted shall set out accurately and completely all of the information required to be maintained under paragraph 2b of this Section V. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal stock number 029-005-0014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission

of copies of payrolls by all subcontractors.

d. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his/her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) that the payroll for the payroll period contains the information required to be maintained under paragraph 2b of this Section V and that such information is correct and complete;

(2) that such laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR 3;

(3) that each laborer or mechanic has been paid not less than the applicable wage rate and fringe benefits or cash equivalent for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

e. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 2d of this Section V.

f. The falsification of any of the above certifications may subject the contractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

g. The contractor or subcontractor shall make the records required under paragraph 2b of this Section V available for inspection, copying, or transcription by authorized representatives of the SHA, the FHWA, or the DOL, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the SHA, the FHWA, the DOL, or all may, after written notice to the contractor, sponsor, applicant, or owner, take such actions as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

### VI. RECORD OF MATERIALS, SUPPLIES, AND LABOR

1. On all Federal-aid contracts on the National Highway System, except those which provide solely for the installation of protective devices at railroad grade crossings, those which are constructed on a force account or direct labor basis, highway beautification contracts, and contracts for which the total final construction cost for roadway and bridge is less than \$1,000,000 (23 CFR 635) the contractor shall:

**REQUIRED CONTRACT PROVISIONS (con't)**

- a. Become familiar with the list of specific materials and supplies contained in Form FHWA-47, "Statement of Materials and Labor Used by Contractor of Highway Construction Involving Federal Funds," prior to the commencement of work under this contract.
- b. Maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form FHWA-47, and in the units shown on Form FHWA-47.
- c. Furnish, upon the completion of the contract, to the SHA resident engineer on Form FHWA-47 together with the data required in paragraph 1b relative to materials and supplies, a final labor summary of all contract work indicating the total hours worked and the total amount earned.

2. At the prime contractor's option, either a single report covering all contract work or separate reports for the contractor and for each subcontract shall be submitted.

**VII. SUBLETTING OR ASSIGNING THE CONTRACT**

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the State. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635).

a. "Its own organization" shall be construed to include only workers employed and paid directly by the prime contractor and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor, assignee, or agent of the prime contractor.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph 1 of Section VII is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless

of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the SHA contracting officer determines is

necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the SHA contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the SHA has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

**VIII. SAFETY: ACCIDENT PREVENTION**

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the SHA contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

**IX. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS**

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law.

To prevent any misunderstanding regarding the seriousness of these and similar acts, the following notice shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

**REQUIRED CONTRACT PROVISIONS (con't)**

**NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS**

18 U.S.C. 1020 reads as follows:

*"Whoever being an officer, agent, or employee of the United States, of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or  
Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;  
Shall be fined not more than \$10,000 or imprisoned not more than 5 years or both."*

**X. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$100,000 or more.)

By submission of this bid or the execution of this contract, or subcontract, as appropriate, the bidder, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub.L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.
2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed there under.
3. That the firm shall promptly notify the SHA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of

Violating Facilities.

4. That the firm agrees to include or cause to be included the requirements of paragraph 1 through 4 of this Section X in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

**XI. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

**1. Instructions for Certification - Primary Covered Transactions:**

(Applicable to all Federal-aid contracts -49 CFR 29)

- a. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
- d. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- f. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

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EEO Special Provisions  
Revised 05/10

g. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement portion of the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph f of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

\*\*\*\*\*

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions**

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- b. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft,

forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

- c. Are not presently indicted for or otherwise criminally or

civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1b of this certification; and

- d. Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

\*\*\*\*\*

**2. Instructions for Certification - Lower Tier Covered Transactions:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions of \$25,000 or more - 49 CFR 29)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department of agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "primary covered transaction," "participant," "person," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

**REQUIRED CONTRACT PROVISIONS (con't)**



g. A participation in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

\*\*\*\*\*

#### **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

#### **XII. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

(Applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 - 49 CFR 20)

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or

**APPENDIX A (Short Version)**  
**REQUIRED CONTRACT PROVISIONS**  
**FEDERAL-AID CONSTRUCTION CONTRACTS**

The Required Contract Provisions for Federal-aid construction contracts, Form FHWA-1273 (Rev. 4-93) is restated here for emphasis:

**Section IV. PAYMENT OF PREDETERMINED MINIMUM WAGE**

**Section IV.2, Classification**

**2. Classification**

a. The SHA contracting officer shall require that any class of laborers or mechanics employed under the contract, which is not listed in the wage determination, shall be classified in conformance with the wage determination.

b. The contracting officer shall approve an additional classification, wage rate and fringe benefits only when the following criteria have been met:

(1) the work to be performed by the additional classification requested is not performed by a classification in the wage determination;

(2) the additional classification is utilized in the area by the construction industry;

(3) the proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and

(4) with respect to helpers as defined in Section IV.4(c), when such a classification prevails in the area in which the work is performed.

**For implementation reference Section IV.2(c), (d) and (e).**

MINNESOTA DEPARTMENT OF TRANSPORTATION  
OFFICE OF CIVIL RIGHTS

EEO Special Provisions  
Revised 5/09

***APPENDIX A (SHORT VERSION)***  
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EEO Page 36



**MN REVENUE WITHHOLDING FORM IC 134**

**MINNESOTA REVENUE**

**IC134**

**Withholding Affidavit for Contractors**

This affidavit must be approved by the Minnesota Department of Revenue before the state of Minnesota or any of its subdivisions can make final payment to contractors.

Please type or print clearly. This will be your mailing label for returning the completed form.

Company name		Daytime phone	Minnesota tax ID number
Address		Total contract amount	Month/year work began
City	State	\$	Month/year work ended
Zip Code		Amount still due	
		\$	

Project information	Project number	Project location			
	Project owner	Address	City	State	Zip code
Did you have employees work on this project? <input type="checkbox"/> Yes <input type="checkbox"/> No If no, who did the work?					

Contractor type	Check the box that describes your involvement in the project and fill in all information requested.		
	<input type="checkbox"/> Sole contractor		
	<input type="checkbox"/> Subcontractor	Name of contractor who hired you	
		Address	
	<input type="checkbox"/> Prime contractor—If you subcontracted out any work on this project, all of your subcontractors must file their own IC134 affidavits and have them certified by the Department of Revenue before you can file your affidavit. For each subcontractor you had, fill in the information below and attach a copy of each subcontractor's certified IC134. If you need more space, attach a separate sheet.		
	Business name	Address	Owner/Officer

Sign here	I declare that all information I have filled in on this form is true and complete to the best of my knowledge and belief. I authorize the Department of Revenue to disclose pertinent information relating to this project, including sending copies of this form, to the prime contractor if I am a subcontractor, and to any subcontractors if I am a prime contractor, and to the contracting agency.		
	Contractor's signature	Title	Date

Mail to: Minnesota Revenue, Mail Station 6610, St. Paul, MN 55146-6610

**Certificate of Compliance**

Based on records of the Minnesota Department of Revenue, I certify that the contractor who has signed this certificate has fulfilled all the requirements of Minnesota Statutes 290.92 and 270C.66 concerning the withholding of Minnesota income tax from wages paid to employees relating to contract services with the state of Minnesota and/or its subdivisions.

Department of Revenue approval

Date

Back No. 5500134 (Rev. 1/07)



## Instructions for Form IC134

### Who must file

If you are a prime contractor, a contractor or a subcontractor who did work on a project for the state of Minnesota or any of its local government subdivisions — such as a county, city or school district — you must file Form IC134 with the Minnesota Department of Revenue.

This affidavit must be certified and returned before the state or any of its subdivisions can make final payment for your work.

### If you're a prime contractor and a subcontractor on the same project

If you were hired as a subcontractor to do work on a project, and you subcontracted all or a part of your portion of the project to another contractor, you are a prime contractor as well. Complete both the subcontractor and prime contractor areas on a single form.

### When to file

The IC134 cannot be processed until you finish the work. If you submit the form before the project is completed, it will be returned to you unprocessed. Mail Form IC134 to the address at the bottom of the form.

If you are a subcontractor or sole contractor, send in the form when you have completed your part of the project.

If you are a prime contractor, send in the form when the entire project is completed and you have received certified affidavits from all of your subcontractors.

### How to file

If you have fulfilled the requirements of Minnesota withholding tax laws, the Department of Revenue will sign your affidavit and return it to you.

If any withholding payments are due to the state, Minnesota law requires certified payments before we approve the IC134.

Submit the certified affidavit to the government unit for which the work was done to receive your final payment. If you are a subcontractor, submit the certified affidavit to your prime contractor to receive your final payment.

### Minnesota tax ID number

You must enter your Minnesota tax ID number on the form. You must have a Minnesota tax ID number if you have employees who work in Minnesota.

If you don't have a Minnesota ID number, you must apply for one. Call 651-282-5225.

An application (Form ABR) is also available on our website at [www.taxes.state.mn.us](http://www.taxes.state.mn.us).

If you have no employees and did all the work yourself, you do not need a Minnesota tax ID number. If this is the case, enter your Social Security number in the space for Minnesota tax ID number and explain who did the work.

### Information and assistance

If you need help or more information to complete this form, call 651-282-9999.

Additional forms are available on our website at [www.taxes.state.mn.us](http://www.taxes.state.mn.us) or by calling 651-296-4444. TTY: Call 711 for Minnesota Relay.

We'll provide information in other formats upon request to persons with disabilities.

### Use of information

The Department of Revenue needs all the information to determine if you have met all state income tax withholding requirements. If all required information is not provided, the IC134 will be returned to you for completion.

All information on this affidavit is private by state law. It cannot be given to others without your permission, except to the Internal Revenue Service, other states that guarantee the same privacy and certain government agencies as provided by law.

## ADDENDUM NO. 1

State No SP 159-166-001 & 159-167-001

Federal No STPX 5511 ( 257 )

City No M7-18 (J7257)

Reconstruct Pinewood Rd from 11th Ave SE (CSAH 1) to 30th Avenue SE & 30th Ave SE from  
Pinewood Rd to Marion Rd (CSAH 36)

ISSUED: August 23, 2011

BIDS OPENED AT: 11:00 A.M. on September 14, 2011

YOUR BID MUST ACKNOWLEDGE RECEIPT OF THIS ADDENDUM.

The following additions, corrections, or modifications are hereby made a part of the Contract Documents for the above referenced project.

The Proposal & Plan shall be revised as follows:

### PLAN

1. Sheet 3 Affected quantities that were revised are shown in table

SPEC. REF. NUMBER	ITEM DESCRIPTION	UNIT	TOTAL ESTIMATED QUANTITY
2104.509/00100	REMOVE MANHOLE OR CATCH BASIN	EACH	9.00
2501.515/90300	30" RC PIPE APRON	EACH	2.00
2503.511/90125	12" RC PIPE SEWER CLASS V	L F	1,337.00
2503.511/90153	15" RC PIPE SEWER CLASS III	L F	1,348.00
2503.511/90183	18" RC PIPE SEWER CLASS III	L F	706.00
2503.511/90303	30" RC PIPE SEWER CLASS III	L F	602.00
2503.511/90483	48" RC PIPE SEWER CLASS III	L F	717.00
2503.521/90583	58" SPAN RC PIPE-ARCH SEWER CLASS IIIA	L F	49.00
2506.502/00301	CONST DRAINAGE STRUCTURE DESIGN SPEC 1	EACH	58.00
2506.502/00304	CONST DRAINAGE STRUCTURE DESIGN SPEC 4	EACH	22.00
2506.502/00305	CONST DRAINAGE STRUCTURE DESIGN SPEC 5	EACH	8.00
2506.516/00040	CASTING ASSEMBLY	EACH	-
2506.522/00011	ADJUST FRAME & RING CASTING	EACH	4.00
2506.602/00019	CONNECT INTO EXISTING DRAINAGE STRUCTURE	EACH	5.00
2504.603/00408	LOWER 8" WATERMAIN	L F	26.00
2504.603/00412	LOWER 12" WATERMAIN	L F	92.00

2. Sheet 13 Revised TAB L, inlet protection
3. Sheet 14 Revised TAB N, remove Manhole or Catchbasin
4. Sheet 16 Revised TAB R, S-17, S-19, S45A, S47A



5. **Sheet 17** Revised TAB R, S-120, S-142, S-145 outlet locations shifted to avoid watermain and gas line
6. **Sheet 18** Revised TAB S, S-120 to S115, S121 to S-120, S141 to S142, S-145 to S146  
Revised TAB T, W1, W2, W3
7. **Sheet 23** Revised bit removal at 21<sup>st</sup> Ave SE
8. **Sheet 42** Revised Storm S-17, S-19,
9. **Sheet 43** Revised Storm S-19A
10. **Sheet 45-6** Revised Storm S-16A, S-17A
11. **Sheet 49** Revised Watermain W-1
12. **Sheet 53** Revised Watermain W-2
13. **Sheet 56** Revised Storm S-120, Watermain W-2, W-3
14. **Sheet 57** Revised Storm S142, S-145, realigned ditch for gas main.
15. **Sheet 171-172** Revised sections for realigned ditch.

Russ Kelm, PE,

This addendum is 2-pages, and will be incorporated into the plan and proposal prior to distribution.



## **FORM OF PROPOSAL**

### **To the City of Rochester Council Members:**

According to the advertisement of the Rochester City Council inviting proposals for the improvement of the section of highway hereinbefore named, and in conformity with the Contract, Plans, Specifications and Special Provisions pertaining thereto, all on file in the office of the Auditor of the City of Rochester:

(I)(We) hereby certify that (I am)(we are) the only person(s) interested in this proposal as principal(s); that this proposal is made and submitted without fraud or collusion with any other person, firm or corporation at all; that an examination has been made of the site of the work and the Contract form, with the Plans, Specifications and Special Provisions for the improvement.

(I)(We) understand that the quantities of work shown herein are approximate only and are subject to increase or decrease; that all quantities of work, whether increased or decreased within the limits specified in Mn/DOT 1903, are to be done at the unit prices shown on the attached schedule; that, at the time of opening bids, totals only will be read, but that comparison of bids will be based on the correct summation of item totals obtained from the unit prices bid, as provided in Mn/DOT 1301.

(I)(We) propose to furnish all necessary machinery, equipment, tools, labor and other means of construction and to furnish all materials specified, in the manner and at the time prescribed, all according to the terms of the Contract and Plans, Specifications, and the Special Provisions forming a part of this.

(I)(We) further propose to do all Extra Work that may be required to complete the contemplated improvement, at unit prices or lump sums to be agreed upon in writing before starting such work, or if such prices or sums cannot be agreed upon, to do such work on a Force Account basis, as provided in Mn/DOT 1904.

(I)(We) further propose to execute the form of Contract within 10 days after receiving written notice of award, as provided in Mn/DOT 1306.

(I)(We) further propose to furnish a payment bond equal to the Contract amount, and a performance bond equal to the Contract amount, with the aggregate liability of the bond(s) equal to twice the full amount of the Contract if the contract is less than or equal to five million dollars (\$5,000,000.00), or if the contract is in excess of five million dollars (\$5,000,000.00) the aggregate liability shall be equal to the amount of the contract, as security for the construction and completion of the improvement according to the Plans, Specifications and Special Provisions as provided in Mn/DOT 1305.

(I)(We) further propose to do all work according to the Plans, Specifications and Special Provisions, and to renew or repair any work that may be rejected due to defective materials or workmanship, before completion and acceptance of the Project by the City of Rochester.



(I)(We) agree to all provisions of Minnesota Statutes 1976, Section 181.59.

(I)(We) further propose to begin work and to prosecute and complete the same according to the time schedule set forth in the Special Provisions for the improvement.

(I)(We) assign to the City of Rochester all claims for overcharges as to goods and materials purchased in connection with this Project resulting from antitrust violations that arise under the antitrust laws of the United States and the antitrust laws of the State of Minnesota. This clause also applies to subcontractors and first tier suppliers under this Contract.

## ABBREVIATIONS OF SCHEDULE OF PRICES

### NOTICE TO BIDDERS

Particular note should be made in regard to the clarity of numerals (figures) and to the procedure for alterations and the required certificate as directed by Section 1301.

The following abbreviations may be used in item description and unit of measure in the Schedule of Prices.

A	Arch	JA	Jacked
A-S	Antiseepage	LIN FT	Linear Feet
AB	Asbestos Bonded	LG	Long
ACT	Actuated	MAINT	Maintenance
AGG	Aggregate	MATL	Material
ALUM	Aluminum	MGM	1000 Board Feet
ASB	Asbestos	MET	Metal
ASPH	Asphaltic	MOD	Modification
ASSY	Assemblies	MPA	Metal Pipe Arch
B+B	Balled & Burlapped	MTD	Mounted
BC	Bituminous Coated	NON	MET Non Metallic
BIT	Bituminous	NON PERF	Non-Perforated
BLDG	Building	NON REINF	Non-Reinforced
BR	Bridge	OH	Overhead
CAL	Caliper	P-A	Pipe-Arch
CB	Catch Basin	PAVT	Pavement
CEM	Cement	PERF	Perforated
C and G	Curb and Gutter	PL	Plate
CI	Cast Iron	PNEUM	Pneumatic
C-I-P	Cast-in-Place	PREC	Precast
CL	Class	PREST	Prestressed
COMM	Commercial	PVC	Poly Vinyl Chloride
CONC	Concrete	RCPA	Reinforced Concrete Pipe Arch
COND	Conductor	REINF	Reinforced
CONN	Connection	RELO	Relocation
CONST	Construct	RESTOR	Restoration
CONT	Continuously RMC	Rigid Metallic Conduit	
CP	Cattle Pass	RNMC	Rigid Non Metallic Conduit
CTD	Coated	RDWY	Roadway
CU FT	Cubic Feet	S-G	Sand & Gravel
CU YD	Cubic Yard	SIG	Signal
CULV	Culvert	SPE	Special
CWT	Hundred Weight	SQ FT	Square Feet
DES	Design	SQ YD	Square Yard
DBL	Double	STA	Station
DI	Drop Inlet	STD	Standard
DIAM	Diameter	STL	Steel
DRWY	Driveway	STKPL	Stockpile
EXC	Excavation	STR	Strength
EXP	Expansion	STRUCT	Structural
FAB	Fabric	SPPA	Structural Plate Pipe Arch
FE	Fence	SYS	System
FERT	Fertilizer	T	Traffic
F+I	Furnish & Install	TBR	Timber
FOUND	Foundation	TEMP	Temporary
FT LG	Feet Long	THERMO	Thermoplastic
FURN	Furnish	TRTD	Treated
GA	Gauge	UNDERGRD	Underground
GRAN	Granular	UNTRTD	Untreated
HI	High	VAR	Variable
INP	In Place	VM	Vehicular Measure
INST	Install		WEAR Wearing



Department of Public Works  
201 4<sup>th</sup> Street SE, Room 108  
Rochester, MN 55904-3740  
(507) 328-2400

**ATTACHMENT CM 32--34**

CM 32-34 March 26, 1969

THE FOLLOWING CERTIFICATION WITH REGARD TO THE PERFORMANCE OF  
PREVIOUS CONTRACTS OR SUBCONTRACTS SUBJECT TO THE EQUAL OPPORTUNITY  
CLAUSE AND THE FILING OF REQUIRED REPORTS SHALL BE EXECUTED BY THE  
BIDDER.

The bidder hereby certifies the he/she has \_\_\_\_\_, has not \_\_\_\_\_, participated in a previous contract  
or subcontract subject to the equal opportunity clause, as required by Executive Orders 10925,  
11114 or 11246, and that he/she has \_\_\_\_\_, has not \_\_\_\_\_, filed with the Joint Reporting  
Committee, the Director of the Office of Federal Contract Compliance, a Federal Government  
contracting or administering agency, or the former President's Committee on Equal Employment  
Opportunity, all reports due under the applicable filing requirements.

\_\_\_\_\_  
(Company)

By: \_\_\_\_\_

\_\_\_\_\_  
(Title)

Date: \_\_\_\_\_

Note: The above certification is required by the Equal Employment Opportunity Regulations of the  
Secretary of Labor (41CFR 60-1.7(b)(1)), and must be submitted by bidders and proposed  
subcontractors only in connection with contracts and subcontracts which are exempt from the equal  
opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause  
are set forth in 41 CFR 60-1.5. (Generally only contracts or subcontracts of \$10,000 or under are  
exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their  
implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or  
subcontract subject to the Executive Orders and have not filed the required reports should note that  
41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor  
submits a report covering the delinquent period or such other period specified by the Federal  
Highway Administration or by the Director, Office of Federal Contract Compliance, U.S.  
Department of Labor.

**NON-COLLUSION AFFIDAVIT**

The following Non-Collusion Affidavit shall be executed by the bidder:

State Project No \_\_\_\_\_

STATE OF MINNESOTA \_\_\_\_\_}

COUNTY OF \_\_\_\_\_}ss

I, \_\_\_\_\_, do state under penalty  
(Name of person signing this affidavit)  
of perjury under 28 U.S.C. 1746 of the laws of the United States:

(1) that I am the authorized representative of \_\_\_\_\_

\_\_\_\_\_  
(Name of individual, partnership or corporation submitting this proposal)

and that I have the authority to make this declaration for and on behalf of said bidder;

(2) that, in connection with this proposal, the said bidder has not either directly or indirectly entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding;

(3) that, to the best of my knowledge and belief, the contents of this proposal have not been communicated by the bidder or by any of his/her employees or agents to any person who is not an employee or agent of the bidder or of the surety on any bond furnished with the proposal, and will not be communicated to any person who is not an employee or agent of the bidder or of the said surety prior to the official opening of the proposal, and

(4) that, I have fully informed myself regarding the accuracy of the statements made in this affidavit.

Signed: \_\_\_\_\_  
(Bidder or his authorized representative)



Department of Public Works  
201 4<sup>th</sup> Street SE, Room 108  
Rochester, MN 55904-3740  
(507) 328-2400

Minnesota Department of Transportation  
MN/DOT 21816

Bond No. \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, That we

as Principal, and \_\_\_\_\_  
as Surety, are held and firmly bound unto the STATE OF MINNESOTA, DEPARTMENT OF TRANSPORTATION (and  
county of \_\_\_\_\_), as Obligees, in the sum of five  
percent (5%) of the total amount of bid. (\$ \_\_\_\_\_ ) DOLLARS.

The CONDITION OF THIS OBLIGATION IS SUCH, that if the principal shall be awarded a contract, upon the  
accompanying proposal dated \_\_\_\_\_ for the performance of  
STATE PROJECT \_\_\_\_\_

and shall within the time stated in the proposal enter into a contract for the performance of the work and give bond as required  
by law, then this obligation shall be void; otherwise, the Principal and Surety shall pay unto the Obligees the amount of this  
bond, not as a penalty, but as liquidated damages sustained by the Obligees as the result of such failure on the part of the  
Principal to execute said contract and bond.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

BY: \_\_\_\_\_

Attorney-in-fact

PRINCIPAL

CORPORATE ACKNOWLEDGMENT OF  
CONTRACTOR'S SIGNATURE

STATE OF MINNESOTA }  
COUNTY OF \_\_\_\_\_ } ss.

On this \_ day of \_\_, \_\_\_\_, before me

personally appeared \_\_\_\_\_  
to me personally known, who being by me duly sworn did  
say that they are respectively \_\_\_\_\_ and

\_\_\_\_\_ of \_\_\_\_\_

a corporation; that the seal affixed to the foregoing  
instrument is the corporate seal of the corporation, and that  
said instrument was executed in behalf of the corporation by  
authority of its Board of Directors; and they acknowledged  
said instrument to be the free act and deed of the  
corporation.

INDIVIDUAL OR CO-PARTNERSHIP  
ACKNOWLEDGMENT OF  
CONTRACTOR'S SIGNATURE

STATE OF MINNESOTA }  
COUNTY OF \_\_\_\_\_ } ss.

On this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me  
personally appeared \_\_\_\_\_  
to me personally know to be the person \_\_\_\_\_ described in  
and who executed the foregoing contract and acknowledged  
that \_\_\_\_\_ he \_\_\_\_\_, executed the same as \_\_\_\_\_ free act  
and deed.

Notary Seal

Notary Seal

STATE OF MINNESOTA }  
COUNTY OF \_\_\_\_\_ } ss.

On this \_\_\_\_\_, day \_\_\_\_\_, \_\_\_\_\_ before me personally came  
\_\_\_\_\_ to be known to be an Attorney-in-Fact of  
\_\_\_\_\_, the corporation described in the within instrumental, and he  
acknowledged that he executed the within instrument as the act of the said \_\_\_\_\_ in  
accordance with authority duly conferred upon him by said company.

\_\_\_\_\_  
Notary Public

NOTICE TO CORPORATE SURETIES: This bond will not be accepted unless executed or countersigned by a  
Minnesota agent, resident officers, or attorney-in-fact whose name and address must be noted in the space hereinafter  
provided.

Full Name of Surety Co. \_\_\_\_\_

Home Office Address \_\_\_\_\_

Name of Attorney-in-fact \_\_\_\_\_

Name of Local Agency \_\_\_\_\_

Address of Local Agency \_\_\_\_\_

If this bond is executed outside of the State of Minnesota it must be countersigned by a Minnesota Resident Agent  
of the Surety Company.

Name of Agent affixing countersignature \_\_\_\_\_





City of Rochester  
Schedule Of Prices By Category By Contract Projects

**Addendum    Date Created**

1      08/23/2011 8:57 AM

Project Number: SP 159-166-001

Project Title or Road Number: Contract No.: 7257 - SP 159-166-001 - J7257 Reconstruct Pinewood Rd from 11th Ave SE (CSAH 1) to 30th Avenue SE &amp; 30th Ave SE from Pinewood Rd to Marion Rd (CSAH 36)

Work Type: SP 159-166-001 - Multiple Components

**BIDDER MUST FILL IN UNIT PRICES IN NUMERALS; MAKE EXTENSION FOR EACH ITEM AND TOTAL. FOR COMPLETE INFORMATION CONCERNING THESE ITEMS, SEE PLANS AND SPECIFICATIONS, INCLUDING SPECIAL PROVISIONS.**

Item No.	Description	Units	Quantity	Unit Price	Total Price
<b>Project SP 159-166-001</b>					
1 STREET (350)					
2021.501/00010	MOBILIZATION	LS	1.00		
2041.610/00010	TRAINEES	HOUR	500.00		
2101.501/00010	CLEARING	ACRE	0.26		
2101.502/00010	CLEARING	TREE	13.00		
2101.506/00010	GRUBBING	ACRE	0.26		
2101.507/00010	GRUBBING	TREE	13.00		
2104.501/00022	REMOVE CURB AND GUTTER	L F	729.00		
2104.503/00024	REMOVE CONCRETE DRIVEWAY PAVEMENT	S F	328.00		
2104.505/00119	REMOVE BITUMINOUS DRIVEWAY PAVEMENT	S Y	913.00		
2104.505/00120	REMOVE BITUMINOUS PAVEMENT (P)	S Y	29,158.00		
2104.511/00011	SAWING CONCRETE PAVEMENT (FULL DEPTH)	L F	143.00		
2104.513/00011	SAWING BIT PAVEMENT (FULL DEPTH)	L F	4,799.00		
2104.521/00052	SALVAGE WOVEN WIRE FENCE	L F	156.00		
2104.521/00055	SALVAGE WOODEN FENCE	L F	27.00		
2104.523/00543	SALVAGE SIGN TYPE C	EACH	117.00		
2105.501/00010	COMMON EXCAVATION (P)	C Y	13,490.00		
2105.525/00010	TOPSOIL BORROW (LV) (P)	C Y	2,161.00		
2211.503/00050	AGGREGATE BASE (CV) CLASS 5 (P)	C Y	12,056.00		
2221.503/00050	AGGREGATE SHOULDERING (CV) CLASS 5	C Y	166.00		



## Schedule Of Prices By Category By Contract Projects - SP 159-166-001

BIDDER MUST FILL IN UNIT PRICES IN NUMERALS; MAKE EXTENSION FOR EACH ITEM AND TOTAL. FOR COMPLETE INFORMATION CONCERNING THESE ITEMS, SEE PLANS AND SPECIFICATIONS, INCLUDING SPECIAL PROVISIONS.

Item No.	Description	Units	Quantity	Unit Price	Total Price
2360.501/12200	TYPE SP 9.5 WEARING COURSE MIX (2,B)	TON	59.00		
2360.501/13300	TYPE SP 9.5 WEARING COURSE MIX (3,C)	TON	7,325.00		
2360.502/22200	TYPE SP 12.5 NON WEAR COURSE MIX (2,B)	TON	95.00		
2360.502/23200	TYPE SP 12.5 NON WEAR COURSE MIX (3,B)	TON	3,989.00		
2504.602/00032	ADJUST GATE VALVE & BOX	EACH	54.00		
2504.602/03005	ADJUST CURB STOP	EACH	5.00		
2531.501/02120	CONCRETE CURB & GUTTER DESIGN B424	L F	60.00		
2531.501/02320	CONCRETE CURB & GUTTER DESIGN B624	L F	13,596.00		
2531.501/02321	CONCRETE CURB & GUTTER DESIGN B624 (MOD)	L F	11.00		
2531.507/00060	6" CONCRETE DRIVEWAY PAVEMENT	S Y	590.00		
2531.507/00070	7" CONCRETE DRIVEWAY PAVEMENT	S Y	84.00		
2540.602/00158	RELOCATE MAIL BOX	EACH	56.00		
2557.603/00053	INSTALL WOVEN WIRE FENCE	L F	156.00		
2557.603/00055	INSTALL WOODEN FENCE	L F	27.00		
2563.601/00010	TRAFFIC CONTROL	LS	1.00		
2564.531/00130	SIGN PANELS TYPE C	S F	529.00		
2564.531/00140	SIGN PANELS TYPE D	S F	123.00		
2564.602/00320	INSTALL SIGN TYPE SPECIAL	EACH	2.00		
2573.502/00010	SILT FENCE, TYPE HEAVY DUTY	L F	260.00		
2573.502/00040	SILT FENCE, TYPE MACHINE SLICED	L F	12,230.00		
2573.512/00012	TEMPORARY DITCH CHECK TYPE 2	L F	5.00		
2573.520/00010	SEDIMENT REMOVAL BACKHOE	HOURL	41.00		



## Schedule Of Prices By Category By Contract Projects - SP 159-166-001

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Item No.	Description	Units	Quantity	Unit Price	Total Price
2573.530/00010	STORM DRAIN INLET PROTECTION	EACH	101.00		
2573.550/00010	EROSION CONTROL SUPERVISOR	LS	1.00		
2573.602/00020	TEMPORARY ROCK CONSTRUCTION ENTRANCE	EACH	3.00		
2575.501/00010	SEEDING	ACRE	0.80		
2575.502/00340	SEED MIXTURE 340	LB	65.00		
2575.505/00020	SODDING TYPE EROSION	S Y	107.00		
2575.505/00060	SODDING TYPE MINERAL	S Y	18,519.00		
2575.525/00020	EROSION STABILIZATION MAT CLASS 2	S Y	261.00		
2575.532/00030	FERTILIZER TYPE 3	LB	766.00		
2575.533/00010	AGRICULTURAL LIME	TON	11.00		
2575.560/00060	HYDRAULIC SOIL STABILIZER TYPE 6	LB	2,646.00		
2575.571/00010	RAPID STABILIZATION METHOD 3	MGAL	3.00		
2582.501/03001	PAVT MSSG (LT ARROW) EPOXY	EACH	2.00		
2582.501/03002	PAVT MSSG (RT ARROW) EPOXY	EACH	7.00		
2582.501/03116	PAVEMENT MESSAGE (BIKE SYMBOL) EPOXY-GROUND IN	EACH	33.00		
2582.502/51104	4" SOLID LINE WHITE-EPOXY (GROUND IN)	L F	16,948.00		
2582.502/51112	12" SOLID LINE WHITE-EPOXY (GROUND IN)	L F	325.00		
2582.502/51204	4" BROKEN LINE WHITE-EPOXY (GROUND IN)	L F	248.00		
2582.502/52204	4" BROKEN LINE YELLOW-EPOXY (GROUND IN)	L F	1,913.00		
2582.502/52404	4" DBLE SOLID LINE YELLOW-EPOXY (GR IN)	L F	1,462.00		
2582.503/00140	CROSSWALK MARKING-EPOXY	S F	180.00		
Total 1 STREET (350)					
2 PED FACILITIES (550)					
2104.503/00015	REMOVE BITUMINOUS WALK	S F	679.00		



BIDDER MUST FILL IN UNIT PRICES IN NUMERALS; MAKE EXTENSION FOR EACH ITEM AND TOTAL. FOR COMPLETE INFORMATION CONCERNING THESE ITEMS, SEE PLANS AND SPECIFICATIONS, INCLUDING SPECIAL PROVISIONS.

Item No.	Description	Units	Quantity	Unit Price	Total Price
2104.503/00020	REMOVE CONCRETE SIDEWALK	S F	699.00		
2521.501/00040	4" CONCRETE WALK	S F	35,456.00		
2521.501/00050	5" CONCRETE WALK	S F	3,532.00		
2521.501/00051	5" CONCRETE WALK-EXPOSED AGGREGATE	S F	22.00		
2521.501/00060	6" CONCRETE WALK	S F	6,368.00		
2521.501/00070	7" CONCRETE WALK	S F	545.00		
2521.603/00030	BITUMINOUS BIKE PATH	L F	877.00		
2531.618/00010	TRUNCATED DOMES	S F	454.00		
Total 2 PED FACILITIES (550)					
3 STORM SEWER (450)					
2104.501/00016	REMOVE SEWER PIPE (STORM)	L F	1,318.00		
2104.501/00090	REMOVE CONCRETE BOX CULVERT	L F	31.00		
2104.509/00013	REMOVE PIPE APRON	EACH	2.00		
2104.509/00027	REMOVE CONCRETE HEADWALL	EACH	3.00		
2104.509/00100	REMOVE MANHOLE OR CATCH BASIN	EACH	9.00		
2104.523/00095	SALVAGE PIPE APRON	EACH	3.00		
2105.511/00010	COMMON CHANNEL EXCAVATION (P)	C Y	386.00		
2501.515/90120	12" RC PIPE APRON	EACH	11.00		
2501.515/90150	15" RC PIPE APRON	EACH	5.00		
2501.515/90180	18" RC PIPE APRON	EACH	12.00		
2501.515/90240	24" RC PIPE APRON	EACH	7.00		
2501.515/90300	30" RC PIPE APRON	EACH	2.00		
2501.515/90420	42" RC PIPE APRON	EACH	1.00		
2501.515/90480	48" RC PIPE APRON	EACH	2.00		





## Schedule Of Prices By Category By Contract Projects - SP 159-166-001

BIDDER MUST FILL IN UNIT PRICES IN NUMERALS; MAKE EXTENSION FOR EACH ITEM AND TOTAL. FOR COMPLETE INFORMATION CONCERNING THESE ITEMS, SEE PLANS AND SPECIFICATIONS, INCLUDING SPECIAL PROVISIONS.

Item No.	Description	Units	Quantity	Unit Price	Total Price
2501.515/90600	60" RC PIPE APRON	EACH	1.00		
2501.521/02490	49" SPAN CS PIPE-ARCH CULVERT	L F	43.00		
2501.573/00017	INSTALL PIPE APRON	EACH	3.00		
2503.511/90125	12" RC PIPE SEWER CLASS V	L F	1,337.00		
2503.511/90153	15" RC PIPE SEWER CLASS III	L F	1,348.00		
2503.511/90183	18" RC PIPE SEWER CLASS III	L F	706.00		
2503.511/90243	24" RC PIPE SEWER CLASS III	L F	567.00		
2503.511/90303	30" RC PIPE SEWER CLASS III	L F	602.00		
2503.511/90363	36" RC PIPE SEWER CLASS III	L F	519.00		
2503.511/90423	42" RC PIPE SEWER CLASS III	L F	317.00		
2503.511/90483	48" RC PIPE SEWER CLASS III	L F	717.00		
2503.511/90603	60" RC PIPE SEWER CLASS III	L F	59.00		
2503.521/90583	58" SPAN RC PIPE-ARCH SEWER CLASS IIIA	L F	49.00		
2506.502/00301	CONST DRAINAGE STRUCTURE DESIGN SPEC 1	EACH	58.00		
2506.502/00304	CONST DRAINAGE STRUCTURE DESIGN SPEC 4	EACH	22.00		
2506.502/00305	CONST DRAINAGE STRUCTURE DESIGN SPEC 5	EACH	8.00		
2506.502/00307	CONST DRAINAGE STRUCTURE DESIGN SPEC 7	EACH	12.00		
2506.502/00308	CONST DRAINAGE STRUCTURE DESIGN SPEC 8	EACH	3.00		
2506.502/00309	CONST DRAINAGE STRUCTURE DESIGN SPEC 9	EACH	2.00		
2506.522/00011	ADJUST FRAME & RING CASTING	EACH	4.00		
2506.602/00002	RECONSTRUCT DRAINAGE STRUCTURE	EACH	1.00		
2506.602/00008	ADJUST DRAINAGE STRUCTURE	EACH	3.00		



## Schedule Of Prices By Category By Contract Projects - SP 159-166-001

BIDDER MUST FILL IN UNIT PRICES IN NUMERALS; MAKE EXTENSION FOR EACH ITEM AND TOTAL. FOR COMPLETE INFORMATION CONCERNING THESE ITEMS, SEE PLANS AND SPECIFICATIONS, INCLUDING SPECIAL PROVISIONS.

Item No.	Description	Units	Quantity	Unit Price	Total Price
2506.602/00019	CONNECT INTO EXISTING DRAINAGE STRUCTURE	EACH	5.00		
2506.602/00020	CONNECT INTO EXISTING STORM SEWER	EACH	3.00		
2511.501/00013	RANDOM RIPRAP CLASS III	C Y	27.00		
2511.501/00014	RANDOM RIPRAP CLASS IV	C Y	98.00		
2511.515/00014	GEOTEXTILE FILTER TYPE IV	S Y	183.00		
Total 3 STORM SEWER (450)					
4 WATERMAIN (150)					
2504.602/00022	RELOCATE HYDRANT & VALVE	EACH	5.00		
2504.602/00026	ADJUST HYDRANT AND GATE VALVE	EACH	7.00		
2504.603/00408	LOWER 8" WATERMAIN	L F	26.00		
2504.603/00412	LOWER 12" WATERMAIN	L F	92.00		
2504.604/00100	4" INSULATION	S Y	48.00		
Total 4 WATERMAIN (150)					
5 SANITARY SEWER (250)					
2506.522/00011	ADJUST FRAME & RING CASTING	EACH	26.00		
2506.602/00001	RECONSTRUCT MANHOLES	EACH	6.00		
2506.602/09010	FURNISH & INSTALL MANHOLE WATERPROOFING-INTERIOR	EACH	32.00		
Total 5 SANITARY SEWER (250)					
SP 159-166-001 Project Total					
Grand Total					

Bidder Name: \_\_\_\_\_

Bidder Address: \_\_\_\_\_

Bidder Phone: \_\_\_\_\_

Bidder Signature: \_\_\_\_\_

Date: \_\_\_\_\_



## **SURETY DEPOSITS**

### **New Law requires surety deposits for many out-of-state contractors**

A portion of payments made to out-of-state contractors must be deposited with the state of Minnesota in many instances under a new law passed by the 1989 Legislature.

The law requires that 8 percent of each payment paid to out-of-state contractors for work done in Minnesota must be withheld as a surety deposit on any contract that can reasonably be expected to exceed \$100,000.

This requirement may be waived, however, if certain conditions are met.

Following are some guidelines to use with the new law.

Once an out-of-state contractor enters into a contract that is for more than or can be expected to be more than \$100,000, the contractor will have to file form SD-E (Exemption from Surety Deposits for Out-of-State Contractors) with the Department of Revenue. The department will use the form to determine if the contractor is exempt from the 8 percent surety deposit requirements.

The department will grant an exemption if:

- ◆ The contractor gives the department a cash surety or bond, secured by an insurance company licensed in Minnesota, which guarantees the contractor will comply with all provisions of Minnesota withholding, sales, and corporate income tax laws, or
- ◆ The contractor has done construction work in Minnesota at any time during the three calendar years before entering into the contract and has fully complied with Minnesota withholding, sales, and corporate income tax laws.

If the contractor is exempt, the department will certify the form and return a copy to the contractor, who will then be responsible to provide a copy to whoever hired them.

If the contractor is not exempt, the department will notify whoever hired the contractor to withhold the 8 percent surety deposit from each payment made to the contractor. The person or company hiring the contractor will use form SD-D to make the surety deposits.

The Department of Revenue will retain the surety deposits until the contractor's state tax obligations are considered fulfilled. The department will then refund, with interest, any amounts held as surety.

Out-of-state contractors working for Minnesota subdivisions will still have to file the Withholding Affidavit for Contractors (form IC-134) in addition to complying with the new provisions.

If you need more forms of information, please call (612) 296-6181 from the Twin Cities area and (toll-free) 1-800-657-3777 from elsewhere.

You may also write to:           Minnesota Department of Revenue  
Taxpayer Information Division  
Mail Station 4450  
St. Paul, MN 55146-4450



Department of Public Works  
201 4<sup>th</sup> Street SE, Room 108  
Rochester, MN 55904-3740  
(507) 328-2400

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**TO WHOM IT MAY CONCERN:**

A new Minnesota Law effective January 1, 1990, now governs contracts over \$100,000.00 for non-Minnesota contractors.

We have been informed by the Minnesota Department of Revenue that certain requirements have not been met. Therefore, we are withholding an 8% surety deposit from your payment.

You are eligible to have these funds returned when the state tax obligations are met.

Gross Amount

8% Surety Deposit \_\_\_\_\_

Net Amount Paid

If you have any questions, contact Mr. Dan Weber at (507) 328-2409.





Department of Public Works  
201 4<sup>th</sup> Street SE, Room 108  
Rochester, MN 55904-3740  
(507) 328-2400

FORM 21126D (FF REV. 4-00)

Project No. **159-166-001 PINewood RD**  
**159-167-001 30<sup>TH</sup> AVE SE**

GRAND TOTAL \$ \_\_\_\_\_

PROPOSAL GUARANTY as required by 1208 of the Specifications: "A (certified check) (bond), prepared as required by 1208 of the Specifications and payable to the City of Rochester, Minnesota, in an amount equal to at least (5%) percent of the total amount of the bid is submitted herewith as a proposal guaranty.

DISADVANTAGED BUSINESS ENTERPRISE CERTIFICATION: Our firm will meet a minimum goal of \_\_\_\_\_% of this contract to Disadvantaged Business Enterprises. A bidder who fails to indicate a specific goal above must fulfill the total goals indicated in the proposal.

NON-COLLUSION AFFIDAVIT: If a Non-Collusion affidavit is found in this Proposal it must be signed by each bidder.

RECEIPT OF ADDENDA as required by 1210 of the Specifications:

The undersigned hereby acknowledges receipt of and has considered:

Addendum No. 1 Dated 8/23/11 Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_

Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_ Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_

Signed \_\_\_\_\_

RECEIPT OF PLAN:

The undersigned hereby acknowledges receipt of and has considered: **Reconstruct Pinewood Road & 30th Ave SE, 173 Total Sheets.**

Signed \_\_\_\_\_

EXECUTION OF PROPOSAL as required by 1206 of the Specifications:

This proposal dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Signed: \_\_\_\_\_, P.O. Address \_\_\_\_\_ as an individual.

Signed: \_\_\_\_\_, P.O. Address \_\_\_\_\_ as an individual.

Doing business under the name and style of \_\_\_\_\_

Signed: \_\_\_\_\_, for \_\_\_\_\_ a partnership.

NAME

BUSINESS ADDRESS

Signed: \_\_\_\_\_, for \_\_\_\_\_ a corporation,

Incorporated under the laws of the State of \_\_\_\_\_

Name of President \_\_\_\_\_ Business Address \_\_\_\_\_

Name of Vice-President \_\_\_\_\_ Business Address \_\_\_\_\_

Name of Secretary \_\_\_\_\_ Business Address \_\_\_\_\_

Name of Treasurer \_\_\_\_\_ Business Address \_\_\_\_\_

(NOTE: Signatures shall comply with 1206 of the Specifications.)